

Jersey Youth Justice Review

Ministerial Foreword

This Review is intended to address a recommendation of the Independent Jersey Care Inquiry that *“the youth justice system move to a model that always treats young offenders as children first and offenders second”*.

We believe, as do the Council of Ministers and the wider Government, that we have a fundamental responsibility to ensure that children are protected within the criminal justice system.

The Inquiry has laid bare the historic failures of Jersey’s system of child protection, and in particular the treatment of children in the care of the state. Young people who find themselves involved in the criminal justice system as victims, witnesses or offenders are often those most in need of help. We must ensure that in future, even where young people have done wrong, the Government of Jersey considers their needs not their behaviour and we do not lose sight of the fact that they are, first and foremost, children.

This review drew on local expertise, but was led by a UK expert, Professor Jonathan Evans from the University of South Wales. This was done to ensure that the review was independent and external, and to avoid the Jersey ‘system’ from investigating its own shortcomings. It finds good practice and best intentions throughout the criminal justice system, but also many areas that can be improved. It makes a significant number of recommendations that have been accepted in principle by the Council of Ministers. These recommendations are significant and wide-ranging, and bringing them to fruition will require the commitment of time, resources and political will across all parts of the Government.

As a first step, we have instructed officers of Justice and Home Affairs and Children, Young People, Education and Skills to determine how these recommendations may best be implemented and to return to the Council of Ministers with a detailed plan of action by the Autumn.

This is a rare opportunity to make a comprehensive and coherent set of improvements to the criminal justice system that will, we believe, make a significant difference to some of the most vulnerable children in our society. It will also allow the Government to demonstrate its commitment to ‘putting children first’.

Senator Sam Mézec
Minister for Children

Connétable Len Norman
Minister for Home Affairs

JERSEY YOUTH JUSTICE REVIEW

Jersey Youth Justice Review

Jersey Youth Justice Review Steering Group

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Executive Summary

Introduction

- 1.0 The Terms of Reference of the Jersey Youth Justice Review are produced in full in 1.3 of the main Report. Three main points of reference guided the drafting of these Terms of Reference: the Independent Jersey Care Inquiry (2017), which recommended Jersey move towards a welfare-based model of youth justice; the ratification of the United Nations Convention on the Rights of the Child (1989); and the Report commissioned by the States of Jersey, *Youth Justice: Options for Change* (Evans *et al*, 2010). Underpinning the Work of the Review is a commitment to children's human rights and a philosophy that treats young people in contact with the law as 'children first and offenders second'. It recognises that children who break the law should be held to account along with those adults who have responsibility for them. In most cases this will include parents, family members and carers. However, it should also involve holding to account those responsible for delivering services to children in such areas as education, health, social services and leisure.
- 1.1 The 2018 Jersey Youth Justice Review established a Steering Group comprising key stakeholders in Jersey and two external consultants to assist with the work. The membership of that Steering Group can be found in Appendix 1. The terms of reference were drafted and agreed in April 2018 and in May 2018 the two external members of the Steering Group were appointed.
- 1.2 The terms of reference of the Review are very wide and – given the available resources, capacity and time constraints – ambitious. This Report does not pretend to be the product of a full evaluation or comprehensive research project. Nevertheless, the process, which has been informed by a rapid assessment approach, has not been without a measure of rigour. The Steering Group has received relevant data from key agencies, along with both published and draft policy documents and guidelines. There has also been engagement with stakeholders and key informants via meetings, email exchanges and telephone conversations. Initial findings were presented to, and tested with, a wider audience of stakeholders and key informants on 3rd September 2018. On the basis of that discussion a set of draft recommendations was presented to a meeting of the Steering Group on 21st September. On 19th October a draft Report was submitted for discussion at a meeting of the same group. The final Report is the end product of an iterative process.
- 1.3 This Executive Summary highlights the main findings and concludes with a full list of the recommendations.

Prevention, Early Intervention and Diversion

- 2.0 A few preliminary points should be made about the nature of offending by children. Lawbreaking, usually at the less serious end of the spectrum, is widespread amongst young people and should be understood in terms of adolescent development, boundary-testing and experimentation. Most offending does not come to the attention of the criminal justice system and most young people 'grow out of crime' without any formal intervention. For those that are apprehended, the lightest brush with the criminal justice system is usually sufficient to deter them from further involvement in crime. However, prolonged and intensive exposure to the criminal justice system is likely to extend and entrench offending behaviour. There is merit, therefore, in diverting young people from the criminal justice system wherever possible. Those young people who persist in offending are more likely to have experienced problems and disadvantages in their lives. This can include problems in their families, the experience of trauma, mental health issues and the disadvantages that result from unequal access to opportunities. On the latter point it is worth noting that the adverse impact of social inequality on children is now being discussed openly in Jersey political discourse. This is welcomed by the Review because youth justice is not solely about addressing young people's offending behaviour. It is also concerned with ensuring that support and social justice are brought into the lives of young people who are at a disadvantage.
- 2.1 In line with its Rights-based approach, the Review considers it is important that all children have equal access to a set of universal social entitlements in such areas as education, health, accommodation, social services and leisure. When children come to the attention of the criminal justice system it is an opportunity to check on whether they are in the process of becoming detached from such provision and, where appropriate, reconnect them. The Review is pleased to note that the direction of social policy development being undertaken by the States of Jersey is in alignment with the approach advocated in this Report. The challenge is now to translate such aspirations into practical service delivery by removing the barriers that exclude some young people from accessing the services and resources they need to lead fulfilled, law-abiding lives.
- 2.2 Those young people with more complex needs (who may also exhibit challenging behaviour), require a more targeted approach. A good example of this approach was evident in multi-agency initiatives which worked with a small cohort of young people who presented a range of needs and challenging behaviours, including those at odds with the law. The results of this initiative are impressive.
- 2.3 The States Police are the gatekeepers of the criminal justice system. The 2010 Review reported that a somewhat confrontational style of policing was prevalent on the island. The

2018 Review is pleased to report that considerable progress has been made in the intervening period. There has been a welcome change to the way in which young people are policed and there is evidence of good partnership-working with other agencies, most notably the island's excellent Youth Service.

- 2.4 Most young people who are apprehended for their offending are dealt with by the Parish Hall Enquiry. This unique institution, based on voluntary community involvement, provides a distinctive and effective first tier of intervention and diversion from prosecution. It is a good example of local informal justice based on the principle that those who have broken the law should make amends and be reintegrated into the community. The 2010 Review recommended that the Parish Hall Enquiry would be enhanced if the Probation Service undertook preliminary assessments on young people due to appear, and advise the Centenier in advance. That recommendation was accepted and we are pleased to report that this practice is well-established and seems to be working well. The Parish Hall Enquiry has its critics, but there was consensus that this well-established institution should remain; not least because it works for most young people in terms of diverting them from prosecution and the adverse effects of criminalisation. The positive role of the Parish Hall Enquiry in reducing the flow of young people into the Youth Court should be acknowledged.
- 2.5 One way to divert more children from the formal criminal justice system is to raise the age of criminal responsibility from the comparatively low of age of 10 years. The main arguments for raising the age of criminal responsibility relate to recognising the developing maturity of children, their relative powerlessness and position of dependency on adults. One of the implications of raising the age of criminal responsibility is that young people currently entering the formal criminal justice system will need to be dealt with by children's services, education and health. It is entirely feasible to move to a welfare-based Scandinavian style administrative tribunal model or Children's Hearings system akin to that operating in Scotland. However, the Review judged that the alternative infrastructure required for a new model along these lines are not yet in place. Given that the age of criminal responsibility is scheduled to be reviewed in 2021, the Review recommends that the feasibility of introducing a non-criminal justice alternative model of dealing with offending behaviour be considered at the same time.
- 2.6 In the meantime it should be acknowledged that due to guidance on prosecution issued by the Attorney General, it is extremely rare for children below the age of 12 years to be prosecuted. Indeed, it is also very rare for those aged below 14 years to be prosecuted.

The Courts and Statutory Supervision

- 3.0 The Youth Court is not the most child-friendly forum within which to deal with young people's offending, but the Review was impressed with the commitment of sentencers to engaging with children and their families. Serious efforts are made to make the Court a forum where problems are addressed. Although the Royal Court is inevitably a more formal and potentially intimidating environment, the Review was encouraged to have sight of a Draft Practice Direction that would – if implemented - improve the experience of children in this setting.
- 3.1 Commitment to the welfare principle in practice was in evidence in the Youth Court. The Review nevertheless believes that this commitment to the welfare principle should be enshrined in statute in line with Article 3 of the United Nations Convention on the Rights of the Child.
- 3.2 One of the issues that concerned the Youth Court in 2010 was how best to deal with persistent, as opposed to serious, offenders. The pressure to move vertically up the sentencing tariff has seemingly been resisted and each offence is considered on its own merits in line with a commitment to a horizontal sentencing approach. The 2018 Review did acknowledge, however, that the Youth Court has limited community sentencing options.
- 3.3 Custodial sentences appear to be in line with international conventions in the sense that they are used as a 'measure of last resort' for the most serious offences. Custodial sentences have dropped significantly since 2010. The constraints of suitable accommodation in the community does, however, mean that some young people are at risk of being remanded in custody.
- 3.4 The courts are well-served by the Probation Service. Personal Information Forms are completed for children being sent to the Youth Court by the Parish Hall Enquiry. The Social Enquiry Reports, meanwhile, are of a high standard.
- 3.5 Children on statutory orders are supervised by youth justice specialists working in the Probation Service. Assessment and supervision appear to be child-appropriate and of good quality.

The Deprivation of Liberty and Related Issues

- 4.0 As has been mentioned, custodial sentences appear to be used as a measure of last resort. This has led to a reduction in the number of children deprived of their liberty. This success has, however, created a problem of social isolation for that minority of young people who are deprived of their liberty. At the time of the Review, for example, there was only one young person serving a custodial sentence.

- 4.1 The Review welcomes the fact that the Placements Panel places most children in Greenfields Secure Children's Home rather than at La Moye Prison.
- 4.2 The Review is concerned that education and training opportunities are limited while children are serving custodial sentences.
- 4.3 The Review is concerned that it is still possible for girls to be placed with adult female prisoners. Although this is a rare occurrence, this is clearly in breach of international conventions.
- 4.4 As has been mentioned, there is an issue of securing appropriate accommodation in the community for young people. As a result they are placed at risk of being kept overnight in police custody and/or being remanded in custody. This is an issue that should be tackled as a matter of urgency.

Summary of Recommendations

- 5.0 Summarised below are the recommendations of the Jersey Youth Justice Review.

General: Youth Justice Strategy

- 5.1 There should be an understanding promoted across all relevant professional staff that the reasons children and young people present with challenging behaviour are many, complex and often interacting. As part of this, there should be an awareness that the most vulnerable and disadvantaged often present the greatest challenge and that evidence-based approaches are likely to have the greatest impact.
- 5.2 To develop a multi-agency youth justice strategy that addresses the rights and needs of children as perpetrators and victims within the existing children's human rights framework. This strategy should include a statement of clear aims. These aims should enshrine principles that protect and promote children's rights in the youth justice system. Accordingly it is recommended that consideration be given to the following aims:
 - 5.3 The Youth Justice system should be compliant with international children's human rights conventions.
 - 5.3.1 Welfare should be a primary consideration and young people should always be treated as children first and offenders second.
 - 5.3.2 Whenever possible children should be diverted from the criminal justice system with the expectation that their needs will be met.

- 5.3.3 Young people in the youth justice system should have the same access to their rights and entitlements as any other young person.
- 5.3.4 Children in the youth justice system are kept safe at all times.
- 5.3.5 Children in the youth justice system should be seen and heard.
- 5.3.6 Children in the youth justice system should be dealt with in the least restrictive way possible and only deprived of their liberty as a measure of last resort.
- 5.3.7 Victims should be heard, their needs met, and - where appropriate - provided with the opportunity to share their views and take part in restorative processes.
- 5.3.8 Services should be held to account for addressing the needs of young people.

- 5.4 Establish a strategic multi-agency Governance Board to oversee and drive through implementation of the Youth Justice Strategy. The Governance Board should develop an agreed set of outcomes and measures in order to evaluate performance, including independent academic evaluation and independent inspection arrangements (ideally, both should be used in order to establish methodological triangulation).

- 5.5 It is recommended that a 'value for money' exercise be undertaken in order to estimate the costs of the different stages and elements of the youth justice system (e.g., Parish Hall Enquiries, court appearances, secure accommodation, etc.). This work will inform the priorities set by the Youth Justice Strategy.

- 5.6 The Youth Justice Strategy should sit within a broader child and youth participation strategy. This should be proactive in seeking the views of children and young people in relation to all of the key agencies and processes of the youth justice system. Children's voices should also be represented in the main governance structures of the system in order that young people can feedback on existing provision and contribute to the planning of future service delivery.

- 5.7 The *Children and Young People's Plan* and *Pledge to Jersey's Children and Young People* should be complemented by a *Children's Charter of Rights* that are linked to tangible universal entitlements guaranteed by the States of Jersey. The launch of such a Charter should be accompanied by,
 - 5.7.1 A rolling programme of education and awareness-raising amongst children, families and all relevant professionals; and
 - 5.7.2 Clear signposting to advice and advocacy services for children and their parents/carers.

- 5.8 The Youth Justice Strategy should sit within a well-developed Early Help model that ensures children's holistic needs are identified and responded to at the very earliest opportunity. As part of this, a whole system commitment should be made to ensure children access the right help at

the right time, minimising the need for specialist and statutory services. A panel comprising relevant professionals from key agencies should be established to identify and support the small number of children who may have become detached from universal services, with presenting and interacting difficulties in the areas of school non- attendance, exclusion and offending. Support would be provided by a virtual team (the Children's Integrated Support Team), working to the principle of minimum sufficient, and real time intervention. The panel should sit within a broader strategic framework that ensures all agencies are held to account in discharging their responsibilities.

- 5.9 Building on existing good practice, a Restorative Justice Strategy for Jersey should be developed. It should include developing appropriate practice in the domains of community, education, public care, Parish Hall Enquiry and criminal justice.

Changes to the Law, Guidance and Legal Practice

- 5.10 In line with Article 3 of the UNCRC 1989, which states that 'the best interests of the child shall be a primary consideration', the Criminal Justice (Young Offenders) (Jersey) Law 2014 should be amended to include an explicit reference to this welfare principle.
- 5.11 Consideration should be given to a revision of the relevant legislation so as to give further powers to the Youth Court to deal with trials and sentencing involving allegations against children below the age of 18.
- 5.12 Notwithstanding the welcome guidance of the Attorney General on the prosecution of children, it should be noted that Paragraph 78a of the UN Committee on the Rights of the Child Report (2016) to the United Kingdom of Great Britain and Northern Ireland (which now covers the Bailiwick of Jersey in its reporting) states that there is need to 'Raise the age of criminal responsibility in accordance with acceptable international standards'. Given that the UN Committee on the Rights of the Child has also stated that the age of criminal responsibility should be no lower than 12 years, it is recommended these views are taken into full consideration in the review of the age of criminal responsibility scheduled to take place in 2021.
- 5.13 Given that a review of the age of criminal responsibility is scheduled to take place in 2021 and the Independent Care Inquiry has requested that consideration be given to developing a welfare-based system of youth justice, we would recommend that the two issues be considered together. The terms of reference of the 2021 review should be widened to include an exploration of how a move to raise the age of criminal responsibility could be supported by an appropriate, welfare-based model that protects children's rights via appropriate judicial oversight.

- 5.14 In line with Paragraph 78d of the Report by the UN Committee on the Rights of the Child (2016), the possibility of a child being detained in custody with adults should be removed completely (this remains possible in the case of girls in Jersey).
- 5.15 Currently, applications under Article 5 (5) of the Sex Offenders (J) Law 2010 (application to no longer be subject to notification requirements) have to be made to the court that set the notification period. Where a Youth Court set the period a person may not be eligible to apply until he or she is an adult. It may be inappropriate for an adult to apply to the Youth Court, but the Magistrates' Court would not, by law, be able to deal with the matter. Moreover, a Magistrates' Court hearing would be in public whereas the offender as a child would not have been identified in public. This legislative anomaly should be addressed.
- 5.16 Review and amend current legislation and guidance to increase the opportunities for temporary release (see Recommendation 24.1).
- 5.17 The principle of a horizontal sentencing framework should be upheld, but it is recognised that the courts have limited sentences available to them in the Youth Court. In the circumstances a reparative condition as part of a Probation Order, and as an alternative to a financial penalty, could be made available in appropriate cases.
- 5.18 Recommendation 78b of the UN Committee on the Rights of the Child (2016) states that 'diversion measures do not appear in children's records' and Council of Europe guidance that advises 'criminal records of children should be non-disclosable on reaching the age of majority' (apart from in cases where serious offences have been committed). It is therefore recommended that guidance is issued to ensure that a clear Criminal Records and Enhanced Disclosure Policy in respect of children should be developed.

Parish Hall Enquiries

- 5.19 There is consensus that the Parish Hall Enquiry System works well for most children and should be retained, but improvements and enhancements should be considered without undermining the unique ethos of community-based informalism that it represents.
- 5.19.1 It is recognised that, since the 2010 Report, the Probation Service has taken a more proactive role in supporting the Parish Hall Enquiry. Although this development represents a clear improvement in practice, this is an opportune moment to review whether this supporting role could be improved or possibly even involve agencies such as the Youth Service. A task and finish group should consider how children can be better prepared for, and supported

through, the PHE process; and how Centeniers can be best informed and prepared ahead of a child appearing before the PHE.

- 5.19.2 When appropriate, consideration should be given to making greater use of restorative resolutions and explore whether this process should be supported by a victim advocacy scheme.

Courts

- 5.20 Consideration should be given to how the Youth Court and Royal Court can make further progress towards being more child-friendly. An element of formality in proceedings should not necessarily be removed completely, but in some cases a more informal and sensitive approach is appropriate. The courts would clearly benefit from receiving some information and guidance about children's capacity and disposition in advance of hearings. We therefore recommend that the Probation Service be tasked with engaging with courts in order to review how the appropriate information and guidance can be better communicated in advance of hearings.
- 5.21 Where an adult and a child below the age of 18 years appear in the Magistrates' Court, the Magistrates' Court should be permitted to modify its procedures.
- 5.22 Membership of the Youth Appeal Court should be widened to include a judge sitting with Jurats or former Youth Court Panel Members (provided the latter were up-to-date with their training).
- 5.23 As part of a wider commitment to inclusivity and widening participation, the current age restriction of 60 years should be lifted on Youth Court Panel members.

Custody

- 5.24 Although there does not appear to be a problem with excessive or inappropriate custodial sentencing, there remains a risk of children being deprived of their liberty due to the unavailability of appropriate accommodation. This can potentially result in children being held overnight in police custody and inappropriate custodial remands. As a matter of urgency we recommend that a Bail and Accommodation Strategy is developed to ensure children are not subject to the inappropriate deprivation of liberty in police custody and secure accommodation. A Task and Finish Group should be established to explore innovative ways of providing a continuum of appropriate, safe and secure accommodation that takes full account of issues related to welfare, mental health and criminogenic needs. This should include specialist foster care as well as suitable residential units. Urgent attention should also be given to how to address late requests for remand. Finally, the Task and Finish Group should revisit and review the appropriateness of whether the Youth Court should enjoy equivalent powers in respect of

the Secure Accommodation Order as those available in Family Proceedings under Article 29 of the Children (Jersey) Law 2002.

5.25 The decline in the use of custodial sentencing since the Review in 2010 is to be welcomed, but this has resulted in the risk of social isolation for some children in Greenfields Secure Children's Home. It is therefore recommended that the walls of secure accommodation are more permeable in terms of developing a more integrated approach to the use of the facility. This could include,

5.25.1 Greater use of properly risk-assessed day release in order for children to partake of community resources such as education and training; and

5.25.2 Access to Greenfields being given to community-based agencies that work with young people.

Training

5.26 All professionals and volunteers who have contact with children in the youth justice system should receive high quality and ongoing specialist training on working with young people. The content of the training should include (a) an understanding of how children's rights should be applied in practice; and (b) Adverse Childhood Experiences, child development, and trauma-informed practice, so that children currently at risk of being perceived as non-compliant are not unnecessarily criminalised. Those included in the training should be the States Police, Honorary Police, sentencers, advocates, probation officers and restorative justice practitioners.

Diversity, Recruitment and Monitoring

5.27 It should be the aim of every public service to reflect the community it serves in all its diversity. Accordingly consideration should be given to taking positive action to encourage applications from the widest possible range of potential candidates to all of the key voluntary and professional roles in the youth justice system.

5.28 In order to address diversity issues it is important to undertake monitoring in relation to recording the ethnic profile of children across all of the key domains of service provision, including youth justice. It is only through undertaking such monitoring that disparities and patterns of over-representation can be identified with confidence.

Research

- 5.29 It is acknowledged that research on Adverse Childhood Experiences is currently being undertaken and we would urge Jersey to continue its work in this area. In particular it is important to establish the prevalence of Adverse Childhood Experiences (and related issues) in the general population.

Jersey Youth Justice Review: Main Report

Introduction

- 1.0 The Youth Justice Review was established against the background of the publication in July 2017 of the report of the Jersey Care Inquiry, chaired by Frances Oldham QC. Although the main focus of the Inquiry was not criminal justice, some children do have contact with criminal justice agencies and a few enter the youth justice system. A number of vulnerable children will have contact with both children's services and the criminal justice system. Accordingly, recommendations 13.35 and 13.36 of the report (States of Jersey, 2017: 60-61) made the following observations in relation to children who have contact with the youth justice system.

*'The Jersey youth justice system continues to be court based and, while some revisions to practice seem to have been made, **we recommend** that a thorough review be undertaken with a view to moving to a **welfare-based model** rather than a punitive one. We heard from witnesses that the Criminal Justice (Young Offenders) (Jersey) Law 2014 should have a section inserted into it recognising that the welfare of children should be a primary consideration. We agree with this, but our view is that this, in itself, would not be sufficient unless the whole system were amended to centre on the welfare of the child. **We recommend** that the Youth Justice System should consider how it can move to a model that always treats young offenders as children first and offenders second.'*

*In our view, it is essential that those charged with dealing with children and young people in a judicial capacity should have a sound understanding of the needs of young people and of the issues that can impact on their lives. To that end, **we recommend** that a suitable programme of training be put in place for all those acting in a judicial capacity on the island, and that there should be a requirement for regular refresher training to ensure that all are kept briefed on the latest thinking and research on these matters.'*

- 1.1 A Steering Group was duly established in order to assume responsibility for undertaking the Youth Justice Review. The membership of the Steering Group is detailed in Appendix 1. It is worth noting here, though, that the Steering Group decided to seek external support for the Review: Jonathan Evans of the University of South Wales and Dusty Kennedy of Youth Justice Board Cymru were appointed. Jonathan Evans was to be lead author of the Report. Nevertheless, it was made clear at the outset that the Review would be a joint enterprise and the Report would ultimately be co-authored by the Steering Group.
- 1.2 The Terms of Reference of the Youth Justice Review are set out below.

'In 2010, the Report – Youth Justice- Options for Change was commissioned in response to the growing political and public concern about whether Jersey was 'getting it right' in relation to how it deals with adolescent offenders and other young people in need.

The Report made a number of recommendations for change.

In 2017, the Independent Jersey Child Care Inquiry noted that the youth justice system in Jersey continued to be court based. Whilst some revisions to practice had been made in developing youth justice systems during the three year lifetime of the Inquiry, it recommended an independent assessment of progress to inform subsequent priorities for service improvement, policy and legislative development to ensure that young offenders are always treated as children.

As a result, a Steering Group has been established to take forward this recommendation and this review has been established to examine:

- The nature and characteristics of offending by young people aged between 10 and 17 in Jersey and the arrangements in place to prevent it;
- How effectively the youth justice system and its partners operate in responding to offending by children and young people, preventing further offending, protecting the public and repairing the harm to victims and the community, and rehabilitating offenders; and
- Whether the leadership, governance, delivery structures and performance management of the youth justice system are effective in preventing offending and reoffending and whether they provide value for money.

The review will consider the efficiency and effectiveness of the youth justice system in preventing offending, identify effective practice and make recommendations for improvement.

In particular, the review should acknowledge the Independent Jersey Care Inquiry recommendations and consider:

- Progress made towards the recommendations made in the *Youth Justice: Options for Change* Jersey Report in 2010;
- The responsibilities of local services, including Children's Services, Health, Education, Housing, Police and other partners in preventing children and young people from offending;
- The effectiveness of the partnerships;

- Responses to offending by children and young people, including the informal measures available through the Parish Hall Enquiry system and how they are used;
- The operation and effectiveness of the models of supervision and rehabilitation of young offenders in the community;
- The operation and effectiveness of the model for detaining young people who are remanded or sentenced to custody;
- The leadership and governance of youth justice arrangements in Jersey including the arrangements in place to monitor and improve performance;
- Relevant domestic and international research studies and literature on youth crime and youth justice systems.

The review shall consider the views of key stakeholders including young people and their families and guardians.

1.3 An additional contextual factor that should be mentioned here is that through its status as a Crown Dependency, the ratification of the United Nations Convention on the Rights of the Child (UNCRC) (1989) has been extended to the Bailiwick of Jersey; a development welcomed by the United Nations Committee on the Rights of the Child (2016: 1). In practice this means that, like all States Parties, the States of Jersey will be held to account for its implementation of the UNCRC and related international conventions. Those conventions that bear directly on children in conflict with the law include the Beijing Rules, Riyadh Guidelines, Havana Rules, Tokyo Rules and Vienna Guidelines. Relevant articles on all of these United Nations conventions are cited in Appendix 2. It should be noted, moreover, that due regard should be given to the Council of Europe's guidelines on child-friendly justice (Council of Europe, 2010). The implementation of children's rights is properly regarded as a process rather than event, but progress can be measured by tangible indicators such as statutory instruments, codes of practice, guidelines and significant appointments. Accordingly, it is important to record here that an independent Children's Commissioner has been appointed in Jersey and currently there are discussions about how best to progress ratification of the UNCRC: whether by adopting a 'due regard' model or by embracing full incorporation.

1.4 Given the background and context described above, the Youth Justice Review's terms of reference are extremely wide and – given the available resources, capacity and time constraints – ambitious. It has therefore been necessary to sharpen the focus of the Review and identify

those areas where more work is required. Exaggerated claims for the robustness of the methodology of the Review are not made and the limitations should be made explicit: this document is neither a full evaluation nor comprehensive research project. Nevertheless, it has received and reviewed relevant data from key agencies along with both published and draft policy documents and guidelines. There has also been engagement with stakeholders and key informants. It should be noted, however, that some people with whom we met shared their insights on a non-attributable basis. This means that it has sometimes been difficult to cite the evidential basis for some of our judgements. It is worth mentioning, however, that initial findings were presented to, and tested with, an audience of stakeholders and key informants on 3rd September 2018. On the basis of that discussion a set of draft recommendations were shared and discussed at a meeting of the Steering Group meeting on 21st September 2018. This process, although by no means perfect, has enabled the Steering Group to reach broad agreement on the findings and recommendations of the Review. A fuller summary of the methodology used by the Review is provided in Appendix 3. It is acknowledged that there remain lacunae in our knowledge base and unanswered questions, but it is hoped this Report represents progress in understanding the nature of policy and practice in relation to children in conflict with the law in Jersey. It is also hoped the recommendations will assist progress on the most important issues.

- 1.5 The salient issues that arise from the recommendations of the Independent Care Inquiry, the Steering Committee's Terms of Reference and the implications of UNCRC can be distilled and framed in terms of the following questions:
 - i. What progress has been made in implementing the recommendations of the *Youth Justice: Options for Change* Report (Evans *et al*, 2010) published in 2010?
 - ii. How can youth justice move to a welfare-based model that treats young offenders as children first and offenders second?
 - iii. What are the training implications for the judiciary and others who have contact with children in conflict with the law?
 - iv. What is the nature of offending committed by children?
 - v. How can offending by children be prevented?
 - vi. How appropriate and effective are current responses to offending by children? In particular, how effective and appropriate are the following: (a) Parish Hall Enquiries; (b) models of supervision and rehabilitation in the community; and (c) remands and sentences to custody? How effectively does the youth justice system work with its partners in preventing offending and re-offending by children? Do the present arrangements deliver value for money?
 - vii. How effectively and appropriately is the harm experienced by victims addressed?

viii. To what extent is current policy and practice compliant with relevant international conventions?

ix. To what extent do key messages from research inform policy and practice?

1.6 The above questions are addressed in the main body of the Report and its appendices, but are answered succinctly and explicitly in the conclusion of this Report. This Report makes reference to the Report, *Youth Justice in Jersey: Options for Change* (Evans *et al*, 2010) and reviews the extent to which progress has been made in the intervening period. It may be worth mentioning here that a journal article (Evans *et al*, 2015) on the progress made between 2010 and 2014 identifies some positive impacts made in this period as well as highlighting areas in which action had not been taken at that point. It should be noted, though, that the 2018 Review formed the impression there had been slippage and retrenchment in certain areas since 2014. On the positive side, there have also been fresh initiatives and promising developments in recent years.

1.7 In terms of the Report's structure, Chapter 2 focuses on findings in respect of prevention, early intervention and diversion; Chapter 3 presents the Review's thoughts on courts and statutory supervision; Chapter 4 addresses custodial remand and sentencing issues; Chapter 5, as has been mentioned, summarises the answers to the key questions posed in Section 1.5; and Chapter 6 presents the recommendations.

Prevention, Early Intervention and Diversion

2.0 This chapter explores the 2018 Review's findings on the areas of prevention, early intervention and diversion.

2.1 The prevention of crime is a laudable aim to which everyone should be committed, but it should be borne in mind that if self-report studies are to be believed, most people have committed offences at some point in their lives. The methodologically robust Edinburgh Youth Transitions and Crime Study (McAra, 2018; McAra and McVie, 2007a, 2007b, 2010, 2012, 2016), which included a self-report element, found that 96% of a cohort of 4,300 young people admitted to committing at least one offence between the ages of 11 and 24 years. Most of these offences would be categorised at the less serious end of the offence gravity continuum, but 11% could be considered serious. Most of the offending was committed at the ages of 14 and 15 years. By the age of 18 years 56% reported desisting from offending and by 24 this figure had risen to 90%. Most young people, it would appear, grow out of crime. However, it would be a mistake to locate the explanation solely in terms of child and adolescent development. Social factors

and processes should also be included in any account of desistance (for a fuller account of desistance, please see Appendix 8). Four key themes emerge from the Edinburgh data:

- Persistent serious offending is associated with victimisation (e.g., abuse and neglect), acute vulnerability and social adversity.
- Early identification of ‘at risk’ children is not an exact science. It also poses the risk of labelling and stigmatisation (thus increasing the risk of reoffending and criminalisation).
- Pathways into and out of offending are facilitated or impeded by ‘critical moments’ and ‘key decisions’ made by practitioners and others (e.g., social workers, teachers and parents).
- Diversionary strategies facilitate the desistance process.

2.2 Poverty, where most adverse childhood experiences are concentrated, and contact with the criminal justice system are arguably the most important predictors of persistent serious offending (McAra, 2018). In societies characterised by high levels of social inequality, positive outcomes are more difficult to achieve (in terms of health, education, employment, involvement in the criminal justice system, etc.) for those belonging to lower socio-economic groups (Wilkinson and Pickett, 2010). Jersey, like the United Kingdom, is a society that is characterised by social inequalities; a fact that is now openly acknowledged and discussed by politicians on the island. The Review heard from professionals who were concerned about the impact of inequalities on young people in education and health. A recommendation that there should be a fundamental redistribution of wealth on the island would go well beyond the terms of reference of this Review. Nevertheless, if preventing youth crime – or at the very least reducing the risk of serious offending by young people – is a serious aim, the worst effects of social inequality should be mitigated by ensuring all children have access to the services, resources and rights that will enable them to fulfil their potential. This includes supporting families where parents or carers may be struggling (UNCRC 1918, Article 18:2-3). The UNCRC 1989 represents a Human Rights framework that recognises four main categories of rights: survival rights (inherent right to life, food, healthcare, etc.); development rights (education, access to the arts, cultural rights, etc.); protection rights (protection from sexual exploitation, right to a fair trial rights, etc.); and participation rights (right to freedom of expression, freedom of association and assembly, access to information, etc.). The challenge for all States Parties is to translate those rights into tangible universal entitlements that young people and their families can access. The ten universal entitlements in Welsh Youth Policy are set out below as just one example of how this might be achieved (National Assembly for Wales, 2000):

- i. education, training and work experience – tailored to their needs;
- ii. basic skills which open doors to a full life and promote social inclusion;
- iii. a wide and varied range of opportunities to participate in volunteering and active citizenship;

- iv. high quality, responsive and accessible services and facilities;
- v. independent, specialist careers advice and guidance and student support and counselling services;
- vi. personal support and advice where and when needed and in appropriate formats – with clear ground rules on confidentiality;
- vii. advice on health, housing benefits and other issues provided in accessible and welcoming settings;
- viii. recreational and social opportunities in a safe and accessible environment;
- ix. sporting, artistic, musical and outdoor experiences to develop talent, broaden horizons and promote a rounded perspective including both national and international contexts;
- x. and the right to be consulted, to participate in decision-making and to be heard, on all matters which concern them or have an impact on their lives.

2.3 Three points should be made in respect of the above list. Firstly, these entitlements needed to be translated into more specific packages, services and opportunities at local authority level. Secondly, it is not being suggested that these entitlements have necessarily been applied effectively or evenly across the whole of Wales. Finally, it should be acknowledged that there are probably examples of better child and youth policies in other countries. The important underpinning principle of this approach, however, is that children and young people are recognised as rights-bearers and citizens with entitlements. It is an approach that shifts the balance of power away from a paternalistic state to one where children can exercise their citizenship rights (no doubt, in most cases, with the assistance of parents, carers, professionals and advocacy services).

2.4 There is sometimes a tendency to neglect the social rights of children who have broken the law as they are perceived as less deserving. The Beijing Rules 1985 (Article 1.4) remind us that juvenile justice should be located within ‘...a comprehensive framework of social justice for all juveniles.’ Youth justice is often seen solely in terms of responding to the wrongdoing of a young person. Youth justice certainly holds young people to account for their actions, but it is also concerned with wider issues of social justice in the child’s life. Also called to account are adults who have responsibility for the child, which typically include parents and carers, but also those adults who should be providing services and support: teachers, social workers and health practitioners. Children’s rights and the associated entitlements of citizenship are especially important for young people in conflict with the law because in many cases they are very often likely to be detached, or in the process of becoming detached, from those services and resources that can assist them: typically, these will be in such areas as education, training and health. When a young person commits an offence it is an opportunity to check that all of the entitlements are being accessed. This can not only enhance the prospects of rehabilitation and reintegration into the community, but also promote their health and well-being. More widely,

though, entitlements checks can be a way of helping to address young people who are presenting problems other than offending or challenging behaviour. A young person who is not accessing primary healthcare at the local General Practitioner may be building up health problems for the future – physical, emotional or mental – that will be more difficult to address if they become acute. The holistic, rights-based and non-stigmatising approach described here does not preclude in any way the more specialist and targeted services a minority of children require. This is certainly true of those young people who, for whatever reason, inflict harm on victims and pose a significant risk to the public. It is helpful to think about child and youth policies being organised around a tiered approach. The first tier of intervention assesses whether children simply need to be re-attached to services. The second tier requires a more targeted and specialist approach because of underlying complexities.

- 2.5 A good recent example of targeted intervention with a small cohort of young people assessed as being vulnerable and troublesome has been provided by a multi-agency project piloted in 2018. The nature of the project is summarised by Alison Fossey, Superintendent of Operational Policing at States of Jersey Police (Fossey, 2018: 1) below.

‘This project wasn’t intended to replace or undermine any existing arrangements in place to support these young people, but rather supplement and provide for some intensive, problem solving and dynamic joined up co-ordinated activity. It was and continues to be a multi-agency initiative involving the States of Jersey Police, Jersey Youth Service, Jersey Sport, The Bosdet Foundation, Children’s Service, Education and Probation.

A targeted approach was developed which focused on a team around the school and a team around the community. The team around the school was led by Education and focused on getting the young people into school and engaging and keeping them there. The team around the community was led by Youth Service and centred around the move on café, 1:1 work, a range of group activities and working in hotspots to improve relationships with young people and their communities.

The project sought to achieve the following outcomes for those vulnerable young people identified:

- improved school attendance,
- reduced school exclusions,
- reduced criminal offending and anti-social behaviour
- reduced numbers of missing episodes’

- 2.6 The results of the project have been impressive in terms of the desired outcomes and a proposal based on the experience of this Operation involves the establishment of a Children's Integrated Support Team (CIST) (see Appendix 4). There are always ethical issues and related risks to operations that target young people in such interventions. Should, for example, the children and their families be informed? There clearly needs to be further discussion by stakeholders on the proposal, but the Review wishes to commend the excellent work undertaken and, subject to ethical safeguards, support the proposed establishment of a Children's Integrated Support Team. The Review particularly wishes to commend the proposed requirement that referring agencies should outline clearly how they have tried to address the presenting problem/s. This should reduce the risk of referring agencies 'dumping' their problematic children on the new Team.

Children and Young People's Plans and Policies

- 2.7 At the time of the 2010 Review there was a promising Children and Young People's Plan in development. The embryonic policy document appeared to be opportunity focused and rights-based. It also appeared that it would provide a wraparound service for young people and their families. It was envisaged that a community of practice could be established in which there was not only clear role clarification between agencies, but also a common set of shared practice principles that would transcend organisational boundaries. Disappointingly, in 2018 we were told that the policy had lain dormant, under-funded and neglected. As a consequence the envisaged policy and community of practice had not materialised in the way that had been intended.
- 2.8 At the time of the 2018 Review a new Children's Plan / Children and Young People's Plan was in the process of being developed (*Children First: The plan for Jersey's children, young people and their families*). The Review has had sight of drafts of this developing policy and is greatly impressed by much of the content and general direction of travel. At the time of writing the Review would make the following respectful recommendations to the authors of the policy:
- i. Ensure that children's rights are central, explicit and integral to the policy.
 - ii. A clear statement should be made of how services and agencies are to be held to account for delivering on the commitments made in the policy.
 - iii. Make explicit reference to reducing young people's involvement in offending and perpetrating harm (the detail of which can be delineated in a Youth Justice Strategy policy).
 - iv. The *Children and Young People's Plan* and *Pledge to Jersey's Children and Young People* should be complemented by a *Children's Charter of Rights* that describes explicitly the tangible universal entitlements guaranteed by the States of Jersey.

2.9 The Children's Plan quite rightly highlights the importance of children's participation. This is a principle the Review wishes to endorse wholeheartedly; particularly in relation to children in conflict with the law. Article 12 of the United Nations Convention on the Rights of the Child states that:

'Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.'

As well as being set out in international and domestic law, there are other, more practical, reasons for focusing on participation in youth justice. There are benefits both to the individual child and at an organisational level to listening to views and experiences of time spent in the youth justice system. Evidence suggests that children who are involved in the planning and structuring of their interventions are more likely to engage in services and that positive gains are made in relation to behaviour, respect and confidence (Brodie et al 2009, Creaney 2014). Very often areas for improvement are identified after organisations have sought the views of children engaged in their services. This can lead to co-production of policies and documentation with children themselves; with which they can better engage and for which they have more respect due to increased ownership. For example, during the review we were shown literature given to children in order to explain subjects such as restorative justice. The style and language used, while appropriate for adult levels of reading and comprehension, were less suited to children and young people. The production of more child friendly literature in collaboration with service users for use by the Jersey Probation Service would be an opportunity to trial and develop participation and consultation. The challenges of engaging children who have offended should not be underestimated. As suggested above, as well as finding themselves subject to the worry and stresses of being involved in criminal proceedings, they have often experienced multiple adverse childhood experiences that can make participation difficult. However, neither should these challenges be used as a reason for services to overlook participatory action. There are a number of examples in other jurisdictions where states and agencies have successfully captured the voices of groups of children who are perceived as being hard to reach. Progress on participation has been made in the jurisdiction of England and Wales, but further afield lessons can be drawn from Scandinavia.

The Risk of Criminalisation in Schools and the Public Care System

2.10 The 2010 Review conducted an in-depth case file review on a sample of eleven of the most troublesome young people appearing before the Youth Court at that time. The children concerned were identified by the magistrates. The case file review revealed that the children concerned shared a number of common characteristics: early experience of disrupted attachment to a significant parental figure; maltreatment (abuse and neglect); disengagement

from school; misuse of alcohol from an early age; exposure to violence, especially domestic abuse; and experience of the public care system. The 2010 Review questioned whether challenging behaviour in the domains of school and residential children homes was at risk of being re-framed as 'offending behaviour' and thereby resulting in inappropriate criminalisation. There was no significant evidence of children's challenging behaviour in school settings being dealt with outside the domain of education in the criminal justice system, but it is always important to question whether disciplinary measures are restorative or exclusionary in nature, and whether punishments are more or less likely to result in pupil disengagement. In the case of those with experience of public care there was evidence in some cases of relatively minor misdemeanours migrating to the youth justice domain rather than being dealt with 'in house'. It was against this background that it was recommended the expansion of the appropriate use of restorative justice should be explored in such settings. Good practice in restorative justice on the island had been cited, but there was clearly scope to increase capacity.

- 2.11 The 2018 Review was informed that some progress had been made in schools, but there was scope for further work. The unhealthily close relationship between the public care system and the youth justice system is well documented and has been analysed extensively in England and Wales (Prison Reform Trust, 2016; Evans, 2018). The residential children's homes introduced restorative measures following the publication of the 2010 Report, but the 2018 external reviewers formed the impression that there had probably been a decline in the use of restorative justice in children's residential units in recent years. This was attributed by some as being related to the departure of key staff members in leadership positions who were committed to de-escalating strategies and restorative approaches. It is worth noting here that the churn of staff has been cited as a potential risk factor in sustaining good practice in more than one area.
- 2.12 The Review met with the Intensive Support Team and received testimony from some practitioners that it provides an important service to children on the cusp of the Looked After Children Service as well as those returning to their families, carers or other appropriate community placements. A brief overview of the service provided is available in Appendix 5.
- 2.13 During the course of the 2018 Review both the Jersey Children First Practice Model and the Corporate Parenting Strategy were introduced. It is envisaged that these initiatives will make a significant difference to vulnerable children in conflict with the law or at risk of becoming involved in the youth justice system.

Policing

- 2.14 In 2010 the Review received evidence from young people and practitioners that elements in the Jersey States Police adopted a confrontational 'move on' strategy in respect of groups of young people gathered in public spaces. This was in part the result of an over-reliance on Operational

Response Units and a style of policing that tended to be reactive rather than problem-solving. Senior police officers demonstrated awareness of this issue and indicated that there was to be a move towards a more patch-based, community policing model. The 2010 Review supported this shift in policing strategy and additionally recommended that the police would benefit from specialist training to support that change and, whilst it was important to maintain an appropriate demarcation of roles, develop closer working relationships with the high-functioning Youth Service whose street-based detached workers were a valuable resource. Moreover, it was recommended that young people should be consulted about issues of community safety, the use of public space, crime prevention issues and access to leisure, recreation and other facilities.

- 2.15 In 2018 we were pleased to learn that the police had undertaken training and established a close working relationship with the Youth Service. Despite some young people reporting negative experiences in their encounters with individual police officers, on the whole it would seem the police have improved their approach to interacting with young people in public spaces.

Diversion and Parish Hall Enquiries

- 2.16 The 2010 Review found that the Parish Hall Enquiry provided a distinctive, community-based and effective first tier of intervention and diversion from prosecution. It was recognised that it is also well placed to identify when a child is disengaged from family, school and in need of being referred to other services. Moreover, it is in a position to judge whether it is appropriate to facilitate victim-offender mediation or restorative justice. Although there was a demonstrably good relationship between the Centeniers and Probation Service, an enhanced role by Probation staff attending Parish Hall Enquiries was envisaged by the Review. It was thought that Probation staff could provide more background information on the children due to appear. Initial information-gathering on educational background and whether the young person was known to other relevant agencies could thus be shared with the Centenier beforehand. Knowing something about a child ahead of an appearance before the PHE can be invaluable in planning how to interact with them most appropriately. The 2010 Review recommended that the Parish Hall Enquiry could, on the basis of this information, (a) use one of its customary alternatives to prosecution, as already happened, or (b) defer a decision to allow a fuller assessment and plan to be put in place (which might require securing the co-operation of certain agencies and the commitment of resources). Such a plan would then be presented and endorsed at a second Parish Hall Enquiry in order to authorise the proposal. The 2018 Review has not had the capacity to undertake a formal evaluation of any part of the youth justice system, and this includes the Parish Hall Enquiry's role in that system. Nevertheless, we formed the overall impression that the information-gathering undertaken by the Probation Service for the Parish Hall Enquiry was working well and it enhanced the effectiveness of the

process. We were told there were cases where schools had not been contacted beforehand, so this may be an area that requires further work. On closer investigation, it emerged that it is the practice for probation officers to use professional discretion in terms of assessing whether the school necessarily needs to know about the less serious offences. It is also customary to seek parental consent before contacting schools prior to appearance before a Parish Hall Enquiry. In cases where parents considered that the school might misuse the information or label their child negatively, this was not pursued unless wider public interest considerations prevailed. This practice is not inconsistent with the principle of domain integrity management described in the 2010 Review, whereby information in one domain is not automatically shared with another domain: in other words, a case therefore has to be made for sharing information. Seemingly, a proportionate and nuanced professional judgement is currently made on the basis of offence seriousness, public interest and the best interests of the child. It is important to state that on the whole the practice of information-gathering seems to be working well and certainly appears to enhance the Parish Hall Enquiry process. It should perhaps be emphasised here that schools are contacted routinely ahead of court appearances. Details of education - along with other factual information on employment, home circumstances and welfare issues - are provided to the court in Personal Information Forms (PIFs) following children's appearance at Parish Hall Enquiry.

- 2.17 In order to support the enhanced role of the Parish Hall Enquiry, in 2010 it was recommended that Centeniers should undertake training on effective practice and how best to facilitate age-appropriate restorative approaches. We understand that some training has been undertaken by Centeniers. There is, moreover, an appetite for more training.
- 2.18 It was recommended that in cases where a child commits a relatively minor offence whilst being subject to a court order, the Parish Hall Enquiry be permitted to deal with the matter. The 2018 Review found that the Youth Court and Attorney General were supportive of the principle of diversion and de-escalating strategies in such cases. Parish Hall Enquiries are thus able to exercise more discretion in such matters and deal with breaches involving minor offences.
- 2.19 It is important to state clearly that the Review is impressed by the role and work of the Parish Hall Enquiry in relation to children. It is a good example of community-based informal justice based on reintegrative principles. It is also well aligned with the Tokyo Rules' principle of community involvement and community-based responses to crime. Although the Parish Hall Enquiry has its critics, we did not meet anyone who proposed their abolition. Indeed, there would seem to be consensus that they should continue to play an important role. However, areas for improvement were identified: most notably in relation to issues of consistency of practice across the island and the need for enhanced training of Centeniers. One Centenier also took the view that there could be scope to make more extensive use of restorative

resolutions; although it should be noted that all PHE cases are assessed for the possible use of Restorative Justice. It is understood that many victims do not wish to engage with restorative processes. Nevertheless, this is an area that could be revisited and explored further.

- 2.20 There has been a suggestion by some that there could be scope for conferring Parish Hall Enquiries with greater powers over the more challenging young people with whom it deals. The phrase ‘Parish Hall Enquiry Plus’ was used on occasions. The Review is open to specific recommendations on this subject. Any proposals should be consistent with the informal community ethos of the institution, though. It is also important to remember that the Parish Hall Enquiry is not a court. It is a pre-court process designed to deal with offences and resolve disputes outside of the formal criminal justice system. Additionally, and very importantly, it is an institution and process that makes decisions about prosecution; therein resides its greatest power. For a fuller exposition of the role of the Parish Hall Enquiry see Miles and Raynor (2014).
- 2.21 It will be well-known within Jersey that the Honorary Police force, including the senior members known as Centeniers, are elected. Ultimately, therefore, these community volunteers are accountable to their parish electorates. The Review questioned how, in operational terms, good standards of practice are maintained and how performance problems are addressed. The Attorney General provided a set of written guidelines, practice directions and letters that are available for perusal in Appendix 6.

The Age of Criminal Responsibility and the Adoption of a Welfare-Based Model of Dealing with Children in Conflict of the Law

- 2.22 The main arguments for raising the age of criminal responsibility relate to recognising the developing maturity of children, their relative powerlessness and position of dependency on adults. There is also widespread recognition that the adolescent years for most young people will often be characterised by experimentation and boundary-testing. Whilst transgressions of the law should be subject to varying degrees of sanction and support, this need not involve criminalisation. Criminal convictions label children as offenders and risk damaging their future prospects in education, training and employment. Just as punishments and support are offered to pupils in well-managed schools, so the wider community needs to find ways to manage challenging behaviour without reference to the criminal justice system. The age at which criminal responsibility should be set is inevitably a somewhat arbitrary decision, although it can be more nuanced when judicial discretion is permitted for children above the set age (for example, through the use of rebuttable presumptions regarding non-prosecution, as used to be the case with *doli incapax* in England and Wales). Delmage (2013) sets out the respective rationales of the different options with reference to not only criminal and family law, but also the neuroscientific evidence on brain development. Another approach is to reflect on the age at

which cognitive and moral competence is assumed to be present in equivalent areas of citizenship. For example, at what age should someone be considered suitable for jury service? Another example is the age of majority in terms of the right to vote for one's legislators. In the latter case, this would raise the age of criminal responsibility to 16 years; only a little above the European average of 14/15 years.

- 2.23 In the 2010 Review the issue of the age of criminal responsibility was discussed and it was recommended that the age be raised to 12 years. This age is consistent with statements by the UN Committee on the Rights of the Child in 2008. It should be recognised that such a change in Jersey would actually have affected very few children in practice. In any event, the recommendation was not accepted and has instead been dealt with by way of written guidance on prosecution by the Attorney General (see Appendix 6). In practice it is rare for children younger than 14 to appear in the youth justice system.
- 2.24 Given that a review of the age of criminal responsibility is due to be conducted in 2021 and the Independent Care Inquiry has expressed its wish that consideration be given to moving to a welfare-based model that treats young people as 'children first, offenders second', it is appropriate to revisit the main arguments for and against a change in the law in this area. It is important to acknowledge that Article 4.1 of the Beijing Rules exhorts States Parties, 'To not fix the beginning at too low an age level, bearing in mind the facts of emotional, mental, and intellectual maturity.' Research on the effect on children of justice system contact would also suggest that criminal careers tend to be extended rather than curtailed (McAra, 2018; McAra and McVie, 2010). In the circumstances it makes sense to raise the age of criminal responsibility in order to divert children from the youth justice system and deal with them through welfare, educational, health and therapeutic measures. There are, however, challenges and risks that need to be addressed and managed.
- 2.25 Two main issues need to be considered. **Firstly**, if more children in conflict with the law are to be dealt with by agencies and services outside of the criminal justice domain then they need to be resourced accordingly and some staff are likely to require additional specialist training in order to deal with those young people who present challenging and transgressive behaviour. This means there needs to be investment and development of an appropriate alternative infrastructure that can both support and challenge young people. **Secondly**, despite the many disadvantages of dealing with children's transgressive behaviour in the criminal justice domain, the system does possess strengths; most notably the rigorous application of principles of due process, transparency and the protection of legal rights. One of the risks of dealing with children outside of the criminal justice system is that it can lead to the development of a 'shadow youth justice system' (Pitts and Kuula, 2005) within which decision-making can be opaque and sometimes unfair. This can sometimes result in welfare without justice. Indeed,

comparative research in this area shows that merely raising the age of criminal responsibility does not, in itself, automatically deliver either welfare or justice (Abrams *et al*, 2018). It can also disguise the real number of young people deprived of their liberty because ‘therapeutic’ institutions in the domains of welfare and health are often not included in the official statistics on child incarceration.

- 2.26 The afore-mentioned risks do not represent an argument against raising the age of criminal responsibility. Rather, they point to the need to make careful plans before moving to a model of dealing with greater numbers of children outside of the criminal justice system. There is no reason why a partnership of Children’s Services, Education, Health, youth justice specialists from Probation, the Youth Service and others could not deliver welfare-based and child-appropriate interventions that address offending behaviour. As has already been stated, this requires planning, training and proper resourcing. It is also vitally important that children’s rights are actively protected and promoted within this context. This means that transparent processes for challenging professional judgement are in place alongside accessible advocacy services. Judicial oversight of this domain would be desirable, although in practice most cases involving children breaking the law would not trouble the courts.
- 2.27 Another option is to adopt a hybrid bifurcation model in which those cases where young people’s offending seems closely related to their family background or personal experiences beyond their control (including those known to children’s services and the care system), they are dealt with by the family courts. In practice this might represent most children. It would, however, still give the power to deal with some of the more serious cases in the criminal justice domain.
- 2.28 The Review recognises that the overwhelming majority of children in conflict with the law are dealt with by the Parish Hall Enquiry and do not appear in the Youth Court. Nevertheless, the Youth Courts still play a significant role in the administration of justice; including those who appear for driving offences and those who have committed offences at the more serious end of the continuum. The Review does not consider Jersey is currently ready to abolish the Youth Court and move its work to the Family Court or replace it with either a new administrative tribunal model along Scottish or Scandinavian lines. The infrastructure to support a radically different model is not in place. Nevertheless, we would encourage a thorough exploration of the possible options, which should include the afore-mentioned welfare-based tribunal model. Given that a review of the age of criminal responsibility is being undertaken in 2021, we would ask that the terms of reference be widened to include an exploration of how a move to raise the age of criminal responsibility could be supported by an appropriate infrastructure. This infrastructure should include the development of a service delivery model based on welfare principles, the promotion and protection of children’s rights, and appropriate judicial oversight.

- 2.29 In the intervening period the damagingly stigmatising effect of criminal records and enhanced disclosure reports for offences committed below the age of 18 years should be minimised. Accordingly, policy and guidance should be developed on the non-disclosure of contact with the Parish Hall Enquiries and Youth Courts in line with the Council of Europe's guidelines on child-friendly justice (Council of Europe, 2010: IV, B (10)):

'In order to promote the reintegration within society, criminal records of children should be non-disclosable on reaching the age of majority. Exceptions are permitted in cases of serious offences or in cases of employment with vulnerable adults or young people.'

The Courts and Statutory Supervision

- 3.0 This chapter addresses court-related issues, sentencing and the efficacy and appropriateness of statutory supervision.

The Youth Court and Royal Court

- 3.1 The 2010 Review was impressed with magistrates' and panel members' commitment to the welfare of children in the Youth Court. Three main issues were identified in the Youth Court: firstly, how best to sentence persistent offenders; when to remand or sentence to custody; and the provision of appropriate training for sentencers and court personnel. The second issue is considered in Chapter 4, but the other two are discussed here.
- 3.2 On the issue of sentencing persistent offenders (as opposed to those who were committing progressively more serious offences), the 2010 Review recommended the adoption of a horizontal rather than vertical sentencing tariff. It was argued that the pressure to issue increasingly more punitive sentences for repeated offences of similar gravity should be resisted. Instead, each offence should be dealt with on its own terms. Such an approach would also enable the court to adopt a problem-solving approach that engaged the young people concerned, their parents (where appropriate) and the professionals tasked with working with them. The temptation to overload Orders with additional requirements, it was recommended, should also be resisted in most cases as this could result in an increased likelihood of breach proceedings being issued by the Probation Service. It was argued that the Probation Service should be allowed to use professional discretion in terms of how it should work with children; particularly as children's level of maturity along with their needs and personal circumstances are likely to change over the course of an Order. In 2018 the Review was satisfied that a horizontal model of sentencing was in operation in the Youth Court. However, after consultation with sentencers, we were sympathetic to their expressed view that the sentencing options available to them are somewhat limited.

- 3.3 In light of the changes recommended in Section 3.3, it was proposed in 2010 that the move to a problem-solving model would be well-served by training for sentencers in 'child-appropriate' approaches to dealing with children in the Youth Court. In 2018 we formed the impression some training had taken place in the intervening period and that this is ongoing. However, as with all personnel who have contact with young people in the youth justice system, we took the view that there was scope for more specialist training.
- 3.4 In addition to the recommendation mentioned in Section 3.4, it was recommended in 2010 that there needed to be specialist training for Advocates representing children. In 2018 the Review learned that whilst things had improved, there remained scope for further specialist training. We formed the impression that the quality of advocacy in respect of representing children remained uneven.
- 3.5 The 2010 Review was impressed with the Youth Court's commitment in practice to the welfare of the child. In 2018 we formed the clear impression that this commitment was still very strong. A Youth Court is not the most child-friendly problem-solving forum in terms of its layout and ethos, but the Review was impressed with the efforts of the Youth Court in engaging with the children appearing before them. This included cases where the young people could be disrespectful. We were also interested to learn of the system of Probation Reviews in which the sentencing Magistrate, Youth Panel members and young person return to court periodically in order to review the progress of those subject to statutory supervision. It is used as an opportunity to give praise when deserved and encouragement when the young person is struggling. This is a very welcome development we would wish to single out for commendation.
- 3.6 A child-friendly approach in the courts does not necessarily mean that formality should be abandoned completely. For many children an air of formality can help in conveying the seriousness of their actions and the gravity of the situation in which they find themselves. However, children should always be treated with respect and their dignity should be upheld. We encountered no evidence to suggest that young people were not being treated respectfully. However, the formality of the court can be oppressive and intimidating for some young people. In much the same way as Centeniers are given information in advance about the way a young person may present, such advance information may also be helpful for sentencers in both the Youth and Royal Courts (although it is recognised that the Personal Information Forms are of assistance). It is likely to help them to engage with a withdrawn or ostensibly truculent child who may be frightened, immature or have experienced recent personal trauma. Accordingly, we envisage a role for the Probation Service in briefing sentencers beforehand. This may be done verbally or in the form of brief reports. It is important to emphasise the point here that such information should not compromise due process. Sentencers and the Probation Service should therefore discuss and agree the best way in which this information should be conveyed.

Finally, the Review should record that it has been encouraged by a Draft Practice Direction that, if implemented, would improve the experience of children in the Royal Court.

The Statutory Supervision and Management of Children in the Community

- 3.7 At the time of the 2010 Review youth justice supervision was undertaken primarily by the Probation Service, but additional support packages and activities were organised by a Youth Action Team. The Review considered that whilst the Youth Action Team's particular service model was not without merit, it was unsuited to the individual needs and circumstances of many challenging young people. It was also found to be duplicative of some of the work already undertaken by the Probation Service. Two recommendations were made. The first was that,

'Those children causing most concern to agencies because of their offending behaviour should be managed according to a multiagency model akin to that of the Child Protection Case Conference or RAMAS but with the focus being on the child's best interests. This process has been labelled CAST (Children's Assessment and Support Team) in this report. All Departments should undertake to co-operate in this process and allocate resources as a priority to this group.'

(Evans et al, 2010: 34)

It was envisaged CAST meetings could be convened by any agency and would be chaired by the Probation and After Care Service. The second recommendation was that,

'YAT should operate at arm's length from the criminal justice system working with those children at risk of school exclusion, who are looked after or who are at risk of coming to official notice. YAT can provide a valuable social work support in these circumstances and should be available to Probation, residential care staff and teachers as well as being able to accept direct referrals from parents. It is important for the reasons outlined earlier in this report, and its role as originally envisaged, that YAT is not seen as a Youth Offending Team (YOT), but as a key resource to the CAST process for our most needy children.'

It should be noted that the proposed CAST model was not implemented and the Youth Action Team was disbanded. The Probation Service thus took sole responsibility for the statutory supervision of young people, but continued to work in partnership with other agencies.

- 3.8 At the time of the 2010 Review the standard of probation supervision practice was considered good, but it was recognised within the Service that it needed to continue to work on developing child-appropriate approaches and practices. Moreover, it was recommended that it was particularly important to work closely and effectively with families, schools and all of the other domains in which young people live their lives. This 'systems' approach was recognised as

being complementary to individualised supervision. It was also important that practitioners employed proactive strategies to encourage children to engage with the requirements of statutory orders rather than simply requiring young people to follow a routinised pattern of reporting. This was particularly crucial in cases where children had complex needs or were from backgrounds where parental and family support was weak. The 2018 Review found that this recommended approach had been adopted by the Probation Service in the intervening period. Training in Family Problem Solving (Trotter, 2018a), prosocial modelling (Trotter and Evans, 2012; Trotter, 2015 and 2018b) and restorative practices are undertaken by all Probation staff. More recently youth justice specialist staff in Probation have been accessing training on the implications of neuroscientific research. This has been provided by educational psychologists.

- 3.9 It was recommended in 2010 that no child should be labelled as a Priority Persistent Offender without consultation with the Probation Service and Children's Services. Exercising professional discretion that takes full account of the young person's circumstances was preferred over an approach that simply counted offences within a specified period of time. Those children causing most concern because of their offending behaviour should be managed in accordance with a multi-agency model. Children who were repeatedly before the court should be considered 'children in need' and be afforded the same level of service as those 'looked after'. The 2018 Review found that multi-agency arrangements had been put in place, but believed they could work more effectively.
- 3.10 It was recommended in 2010 that there should be increased use of indirect reparation and compensation in Probation Orders. Although the expertise of the Community Service Scheme could be used, it was recognised that as a stand-alone sentence, it would probably fail to address the underlying reasons for offending and overlook welfare needs. Accordingly, it was recommended that agreements to undertake indirect restitution should take place within the statutory framework of the Probation Order. In 2018 the Review found that this arrangement was in place, but little used.
- 3.11 In terms of evaluating the effectiveness and appropriateness of probation supervision by youth justice specialists, the Review read relevant documentation, met with staff, accessed a selection of files and observed officers operating in both Parish Hall Enquiries and the Youth Court. We also spoke to a limited number of young people who had experienced contact with the Probation Service. The Review is aware of the independent academic research undertaken with probation staff in Jersey, most notably the Jersey Supervision Skills Study (Ugwudike *et al*, 2014; Raynor *et al*, 2014); although it should be noted that the main focus of that work has been undertaken with those staff supervising adults. Nevertheless, it should be emphasised that all staff, including youth justice staff, receive skills training in core correctional practices and are

evaluated on their effectiveness. This includes video recording and feedback on interviews between supervisors and supervised. Due to issues of informed consent, interviews with children are currently under-represented. This was an issue identified during the course of the Review and is now being addressed. Current research on effective practice suggests that the development of appropriate practitioner skills is more impactful than the delivery of programmes. The ability of practitioners to individualise evidence-based interventions with young people is increasingly being recognised as being important. The core correctional practices involved in working with adolescents include prosocial modelling, problem solving, prosocial skills building (using structured procedures), effective use of authority, cognitive restructuring, relationship practices, motivational interviewing, and inter-agency communication/use of community resources (Ugwudike and Morgan, 2018). When meeting youth justice specialist staff it was very clear that they were committed to their own professional development and sought to apply these skills in their work with young people. It is understood that the Probation Service and its partners in multi-agency projects are currently exploring the possibility of undertaking training on trauma-informed practice.

- 3.12 The YLS/CMI (Youth Level of Service/Case Management Inventory) is a robust, validated and internationally used instrument for assessing risk and identifying the needs of young people. The Review formed the impression that it is not applied mechanistically and is used as an aid to the assessment process. The Social Enquiry Reports we read were of a high standard and considered very useful by the courts. The factual Personal Information Forms (PIFs), meanwhile, appear to be a helpful aid to the Youth Courts in their initial dealings with children. We understand that care is taken to ensure that the use of PIFs do not compromise due process. The probation files we read were well maintained and appeared to reflect the work being undertaken.
- 3.13 There is evidence of good partnership working with some agencies. For example, we were to learn of the proactive partnership with the Department of Social Security, the Youth Service and Prince's Trust. More recently, of course, the Probation Service has been involved in multi-agency initiatives to support young people.
- 3.14 In summary, Jersey is well served by its Probation Service. There are areas of staff development that should be prioritised, though: most notably, in children's rights and trauma-informed practice. However, these training priorities apply to everyone working in the youth justice system.
- 3.15 In terms of evaluating the effectiveness of supervision, it is important to recognise that as more children are diverted from prosecution and dealt with according to the principle of minimum sufficient intervention, the remaining young people in the criminal justice system are likely to be more challenging and have more complex needs. This much smaller cohort will almost

inevitably have higher rates of reconviction. Consequently, the measures of effectiveness should ideally be more nuanced and granular. Evaluations need to be able to measure whether the general direction of travel is towards desistance, less serious offending and positive progress in such areas as health, education, training, leisure and personal relationships.

The Deprivation of Liberty and Related Issues:

- 4.0 This chapter explores issues related to children being deprived of their liberty as a result of being remanded and/or sentenced to custody. The related issue of detention in police custody is also addressed.

Sentencing, Remands in Custody and Bail

- 4.1 In 2010 the Review found that sentencers understood and wished to apply the principle of using penal custody as a measure of last resort, but in practice some children who might reasonably be expected to be dealt with in the community were deprived of their liberty. This might be partly explained in terms of the pressures that may be experienced by sentencers when persistent offending by individuals results in frequent court appearances. Those that have already received community-based sentences and disposals are thus perceived as having exhausted non-custodial options. Such a reaction, whilst perfectly understandable and consistent with the intention of Articles 4 and 5 of the Young Offenders Law 2014, is not consistent with the 'measure of last resort' principle which should be reserved for that minority of young people who represent a clear threat to the public. To be clear, the present statute is not aligned with the principle of using custody as a 'measure of last resort'. This inconsistency would be worthy of review. The need to apply a horizontal model of sentencing was duly identified in 2010 and accepted in practice by the Youth Court. It is worth noting that in 2010 there were 20 children sentenced to custody, but in 2013 there were only four (Evans *et al*, 2015). This is indicative of court practice, although it should be acknowledged that there was a corresponding reduction in the number of young people being brought to the Youth Court; in large part as a direct result of changes in practice in terms of policing, prosecution and diversion. As has been noted elsewhere, reducing the flow of children into the formal youth justice system generally results in a corresponding decline in custodial sentencing. The trend in low numbers of custodial sentences has been maintained in the intervening period. Since January 2016, for example, four children have attracted custodial sentences with one being sentenced by the Royal Court. It should also be noted there have been some serious offences that resulted in community penalties. Arguably, in other jurisdictions they may well have resulted in custodial sentences.

- 4.2 Another factor that appeared to be influencing sentencers was a concern that in some cases where children were vulnerable and/or at risk of reoffending, community resources were insufficiently supportive or robust. There was particular concern expressed about the appropriateness and quality of available accommodation. It was against this background that some young people were remanded or sentenced to custody. In 2018 many of the same concerns were raised. The 2010 Review responded with a number of recommendations. One was that the Youth Court should be empowered to make an Order equivalent to that available in Family Proceedings under Article 29 of the Children (Jersey) Law 2002 (whereby a child's welfare circumstances can be investigated and the process for applying for a Secure Accommodation Order under children were under Article 22 of the Children (Jersey) Law 2002 can be initiated). This recommendation was not actioned. Another recommendation was that specialist emergency fostering and supported accommodation should be part of a continuum of options available to the courts when faced with children who are difficult to place. In 2018 there is need to revisit these issues and consider how to make the best and most flexible use of existing resources and commission new types of accommodation where there is need. Suitable accommodation as an alternative to a remand in custody should be an integral part of a clear bail strategy. However, such accommodation need not be confined to children who are in contact with the youth justice system. Placements should be sought on the basis of children's needs rather than being determined by the source of referral.
- 4.3 On reflection, the 2010 Review failed to give sufficient attention to the issue of children being detained in police custody. In 2018 the police custody suite was visited and we were impressed not only by the facilities, but also the commitment of police staff to their duty of care. Although the Review did not engage with as many young people in the youth justice system as it would have wished, one young person confirmed that his experience of staff at the custody suite had been positive. Having said that, of course, children should be kept in police cells for the shortest possible period of time. Concern was expressed that were occasions when children could not access more appropriate accommodation and were kept overnight in the police custody suite. Greenfields was not accessible after 10.00 pm and there was often no appropriate secure accommodation available for young people with acute mental health issues.
- 4.4 In 2010 the overall conditions that obtained in La Moye YOI and Greenfields Secure Children's Home were good. The staff in both institutions were committed to the welfare of the young people. The children with whom the Reviewers met were also positive about the staff. However, four issues required attention. **Firstly**, that unless there are compelling reasons to the contrary, the presumption should be that children are accommodated in Greenfields (subject to modifications to the layout and management of the building). It was recommended that a Vulnerability Panel be established to assess where children should be placed. A Placements Panel was established and the use of La Moye has declined sharply in the intervening period.

Secondly, due to the low rates of occupancy at any given time, which can include periods when the facility is empty, there was a problem of social isolation for some children. Although interaction with staff was perceived as being positive, there was limited contact with peers. In 2018 the young person in Greenfields with whom reviewers met did not experience this as a problem, but acknowledged that others may struggle with this experience. **Thirdly**, in 2010 there was an issue with young people accessing education, training and meaningful opportunities. This problem remains in 2018; particularly for those aged 16 and above. **Fourthly**, in 2010 there was a problem of girls being held with adult women in the main prison. This is clearly in breach of international conventions (UNCRC 1989, Article 37c). Although this was not a common occurrence, this did happen on occasions. The possibility of this happening remains in 2018.

- 4.5 The use of custody in Jersey is laudably low and appears to represent a measure of last resort in line with the UNCRC and other international guidelines. Within the parameters of the 2018 Review, which had a very broad scope and did not allow detailed examination of every area of practice in great detail during the allotted time, it appeared to the reviewers that the environment, regime and culture existing in Greenfields Secure Children's Home are generally positive. Conversations with staff and the few children accommodated there at the time of the review indicated a caring and nurturing culture, albeit with procedural and logistical limitations that prevented the facility being used to its full potential, and with the very fact of its low usage being a potential risk to the best outcomes for both residents and staff. We were told that for long periods Greenfields can occasionally be empty, but is more often home to just one or two children. There is, therefore very little opportunity for children to associate, socialise or learn with their peers. When there is only one child in residence there is a risk that this could be experienced as *de facto* isolation. We spoke to a child who had indeed spent long periods of over a month as the only child in residence. While the child told us that the time in Greenfields had been settled and an opportunity to reflect and did not report any feelings of isolation, the possibility that a less resilient individual would not feel so settled cannot be ruled out. We were also told by this child that there had been a very limited curriculum within the unit which had led to repetition of lessons with consequent educational disengagement. When asked if efforts had been made to organise temporary release or mobility to enable attendance at outside education or work experience, staff told us that this was not possible. Those with whom we spoke recognised that this is not a satisfactory situation. In other jurisdictions - for example Wales and England - release on temporary licence or mobility arrangements can be used for these purposes. It would appear that there is an opportunity for Jersey to explore the possibility for similar practice under current legislation and consider if this may need to be amended to allow children securely accommodated to access learning and enrichment opportunities in the community when properly assessed for risk.

- 4.6 When compared to similar secure environments in Wales, England, Scotland and Northern Ireland, the facilities and environment in Greenfields stand up very well. Bedrooms are bright and relatively welcoming, living areas are spacious and homely and teaching areas are well presented. We were also told of an interesting and progressive approach to behaviour management which enables physical restraint to be avoided. There is, however, an absence of the kind of lively interaction on the unit that one would expect in a residential or teaching establishment meant for children and young people. This has an inevitable impact upon the mood and morale of the staff; highly skilled individuals motivated to care for troubled children who are underutilised can begin to lose that motivation at work. It is interesting to note that the centre manager has sought to mitigate this by offering the impressive sporting facilities of the unit for use by a local gymnastics club. While this has no impact upon the children resident in the centre, it does show the potential for a more innovative use of Greenfields for youth justice interventions in general. We believe that options should be explored to make greater and more innovative use of the accommodation. Possibilities might include conversion of some of the living areas into supported accommodation for those on community orders where access to suitable accommodation is a challenge to their remaining at liberty or use of the teaching and sports facilities for groups of children supervised in community which, if suitably risk-assessed could include children securely accommodated on the premises. Measures such as these could inject some much needed life into Greenfields, give wider roles for staff and improve the value for money offered by a costly provision currently very much under-utilised.

Conclusion: Revisiting the Key Questions

- 5.0 A succinct summary of the answers to the key questions posed in Chapter 1 is presented below.

i. What progress has been made in implementing the recommendations of the *Youth Justice: Options for Change Report (Evans et al, 2010)* published in 2010?

- 5.1 A summary of the progress made on the implementation of the key recommendations is presented in Appendix 9. It will be noted that no progress was made in terms of changes to statute, but there have been significant changes in practice. For the most part the changes in practice have been maintained over the intervening period. This has resulted, for example, in substantial reductions in first time entrants to the youth justice system and a marked decline in the use of custody.
- 5.2 In some cases there have been slippages in good practice. This seems to have been associated with key personnel leaving their posts.

ii. How can youth justice move to a welfare-based model that treats young offenders as children first and offenders second?

- 5.3 In practice the principle of ‘children first, offenders second’ appears to have been embraced across the existing system. However, this should not prevent the exploration of models of juvenile justice that move away from a court-based approach to one that is explicitly welfare-based. This should be considered as part of the planned review of the age of criminal responsibility.
- 5.4 It would seem that the welfare principle is currently observed in practice in the courts. However, there is need to enshrine the welfare principle in statute in line with Article 3 of the UNCRC.

iii. What are the training implications for the judiciary and others who have contact with children in conflict with the law?

- 5.5 It is important to recognise that members of the judiciary already receive training, as do others working in the criminal justice system. However, there are two areas of training that should be undertaken: children’s rights; and engagement with children who have experienced adverse experiences, including various forms of trauma.

iv. What is the nature of offending committed by children?

- 5.6 It is important to emphasise the point that Jersey is a safe society and, for the most part, children are engaged in less serious offending than their adult counterparts. More detail on the offences committed by children are presented in Appendix 7.

v. How can offending by children be prevented?

- 5.7 It is unrealistic to aim to eliminate all offending by young people, but this does not mean that there should not be investment in prevention measures. The children’s policy currently in development aims to give young people universal access to those opportunities, services and resources that are most likely to promote healthy outcomes. This is to be commended. It should, however, be complemented by a Jersey Children’s Charter of Rights. This will empower children by constructing them as rights-bearers and citizens who, with the support of their advocates, can make entitlement claims on the States of Jersey.
- 5.8 Additional measures need to be taken to identify, and provide additional support to, those who have become detached from their entitlements and/or have more complex specialist needs. The proposed Children’s Integrated Support Team is a commendable model to deliver this objective.

vi. How appropriate and effective are current responses to offending by children? In particular, how effective and appropriate are the following: (a) Parish Hall Enquiries; (b) models of supervision and rehabilitation in the community; and (c) remands and sentences to custody?

5.9 Whilst there is always room for improvement, it is important to acknowledge that the Parish Hall Enquiry and Probation Service work effectively and appropriately with children in conflict with the law. The use of custodial sentences has been reduced significantly in recent years and the principle of imposing such sentences as a measure of last resort appears to be observed. There does remain a problem of children sometimes being remanded in custody inappropriately.

5.10 The presumption is that children will always be placed in Greenfields Secure Children's Home, which is a well resourced and comfortable environment. There are three issues that need to be resolved, however: the problem of social isolation typically experienced by children; inadequate access to education, training and other enriching experiences; and the possibility that girls can still be accommodated with adult female prisoners.

viii. How effectively does the youth justice system work with its partners in preventing offending and re-offending by children? Do the present arrangements deliver value for money?

5.9 There is some very good work undertaken across Jersey. This includes examples of some good partnership work. The Review formed the impression, however, that communication and co-operation between certain partners could be improved. That said, there seems to be a shared commitment to work together.

5.10 Value for money and cost-effectiveness are slippery concepts in any context, but in criminal justice they need to be applied with caution. Nevertheless, it can be stated with certainty that reducing the number of first-time entrants to the system, court appearances and custodial placements saves money. In these three areas the youth justice system has certainly saved public money. Given the commitment that the States of Jersey has made to children, it is important that a significant proportion of that money be invested in measures that are likely to prevent crime and promote positive outcomes for young people. It will be noted that one of the recommendations of this Report is that there should be an audit of the cost of the youth justice system.

viii. How effectively and appropriately is the harm experienced by victims addressed?

5.11 This is an area that the Review has not studied in depth. We were made aware of some very positive restorative justice work across different domains (i.e. not just criminal justice), but there is an under-capacity issue that needs to be addressed. It is recommended that a restorative justice strategy covering all domains occupied by children be developed. This should include criminal justice, of course, but also education and children's residential units.

5.12 One note of caution should be introduced in respect of restorative justice and children. If a 'children's first' philosophy is embraced by the island, then it should be acknowledged that there will be occasions when it is in the child's best interests not to participate in the process. This does not mean that victims' needs should be ignored, but they may sometimes require being dealt with outside of the restorative justice process.

ix. To what extent is current policy and practice compliant with relevant international conventions?

5.13 Jersey's adoption of the UNCRC represents a significant step in the right direction. The appointment of an independent Children's Commissioner is to be welcomed as is the current work being undertaken by the States of Jersey on the area of children's rights. At the present time Jersey is still in the early stages of working through the full implications of developing a children's rights based approach to service planning and delivery. This work needs to be undertaken sector by sector and service by service. Agencies and their personnel in the criminal justice system need to play an active part in this process. The first step is to ensure that a programme of training and awareness-raising is rolled out as soon as possible.

x. To what extent do key messages from research inform policy and practice?

5.14 The Review was impressed by a shared commitment to evidence-based policy and practice. The challenge is how best to translate research conducted in other countries and jurisdictions into the local context.

Summary of Recommendations

General: Youth Justice Strategy

6.0 There should be an understanding promoted across all relevant professional staff that the reasons children and young people present with challenging behaviour are many, complex and often interacting. As part of this, there should be an awareness that the most vulnerable and disadvantaged often present the greatest challenge and that evidence-based approaches are likely to have the greatest impact.

- 6.1 To develop a multi-agency youth justice strategy that addresses the rights and needs of children as perpetrators and victims within the existing children's human rights framework. This strategy should include a statement of clear aims. These aims should enshrine principles that protect and promote children's rights in the youth justice system. Accordingly it is recommended that consideration be given to the following aims:
- 6.1.1 The Youth Justice system should be compliant with international children's human rights conventions.
 - 6.1.2 Welfare should be a primary consideration and young people should always be treated as children first and offenders second.
 - 6.1.3 Whenever possible children should be diverted from the criminal justice system with the expectation that their needs will be met.
 - 6.1.4 Young people in the youth justice system should have the same access to their rights and entitlements as any other young person.
 - 6.1.5 Children in the youth justice system are kept safe at all times.
 - 6.1.6 Children in the youth justice system should be seen and heard.
 - 6.1.7 Children in the youth justice system should be dealt with in the least restrictive way possible and only deprived of their liberty as a measure of last resort.
 - 6.1.8 Victims should be heard, their needs met and, where appropriate, provided with the opportunity to share their views and take part in restorative processes.
 - 6.1.9 Services should be held to account for addressing the needs of young people.
- 6.3 Establish a strategic multi-agency Governance Board to oversee and drive through implementation of the Youth Justice Strategy. The Governance Board should develop an agreed set of outcomes and measures in order to evaluate performance, including independent academic evaluation and independent inspection arrangements (ideally, both should be used in order to establish methodological triangulation).
- 6.4 It is recommended that a 'value for money' exercise be undertaken in order to estimate the costs of the different stages and elements of the youth justice system (e.g., Parish Hall Enquiries, court appearances, secure accommodation, etc.). This work will inform the priorities set by the Youth Justice Strategy.
- 6.5 The Youth Justice Strategy should sit within a broader child and youth participation strategy. This should be proactive in seeking the views of children and young people in relation to all of the key agencies and processes of the youth justice system. Children's voices should also be represented in the main governance structures of the system in order that young people can feedback on existing provision and contribute to the planning of future service delivery.

- 6.6 The *Children and Young People's Plan and Pledge to Jersey's Children and Young People* should be complemented by a *Children's Charter of Rights* that are linked to tangible universal entitlements guaranteed by the States of Jersey. The launch of such a Charter should be accompanied by,
- (i) A rolling programme of education and awareness-raising amongst children, families and all relevant professionals; and
 - (ii) Clear signposting to advice and advocacy services for children and their parents/carers.
- 6.7 The Youth Justice Strategy should sit within a well-developed Early Help model that ensures children's holistic needs are identified and responded to at the very earliest opportunity. As part of this, a whole system commitment should be made to ensure children access the right help at the right time, minimising the need for specialist and statutory services. A panel comprising relevant professionals from key agencies should be established to identify and support the small number of children who may have become detached from universal services, with presenting and interacting difficulties in the areas of school non- attendance, exclusion and offending. Support would be provided by a virtual team (the Children's Integrated Support Team), working to the principle of minimum sufficient, and real time intervention. The panel should sit within a broader strategic framework that ensures all agencies are held to account in discharging their responsibilities.
- 6.8 Building on existing good practice, a Restorative Justice Strategy for Jersey should be developed. It should include developing appropriate practice in the domains of community, education, public care, Parish Hall Enquiry and criminal justice.

Changes to the Law, Guidance and Legal Practice

- 6.9 In line with Article 3 of the UNCRC 1989, which states that 'the best interests of the child shall be a primary consideration', the Criminal Justice (Young Offenders) (Jersey) Law 2014 should be amended to include an explicit reference to this welfare principle.
- 6.10 Consideration should be given to a revision of the relevant legislation so as to give further powers to the Youth Court to deal with trials and sentencing involving allegations against children below the age of 18.
- 6.11 Notwithstanding the welcome guidance of the Attorney General on the prosecution of children, it should be noted that Paragraph 78a of the UN Committee on the Rights of the Child Report (2016) to the United Kingdom of Great Britain and Northern Ireland (which now covers the Bailiwick of Jersey in its reporting) states that there is need to 'Raise the age of criminal responsibility in accordance with acceptable international standards'. Given that the UN

Committee on the Rights of the Child has also stated is the age of criminal responsibility should be no lower than 12 years, it is recommended these views are taken into full consideration in the review of the age of criminal responsibility that scheduled to take place in 2021.

- 6.12 Given that a review of the age of criminal responsibility is scheduled to take place in 2021 and the Independent Care Inquiry has requested consideration be given to developing a welfare-based system of youth justice, we would recommend the two issues be considered together. The terms of reference of the 2021 review should be widened to include an exploration of how a move to raise the age of criminal responsibility could be supported by an appropriate, welfare-based model that protects children's rights via appropriate judicial oversight.
- 6.13 In line with Paragraph 78d of the Report by the UN Committee on the Rights of the Child (2016), the possibility of a child being detained in custody with adults should be removed completely (this remains possible in the case of girls in Jersey).
- 6.14 Currently, applications under Article 5 (5) of the Sex Offenders (J) Law 2010 (application to no longer be subject to notification requirements) have to be made to the court that set the notification period. Where a Youth Court set the period a person may not be eligible to apply until he or she is an adult. It may be inappropriate for an adult to apply to the Youth Court, but the Magistrates' Court would not, by law, be able to deal with the matter. Moreover, a Magistrates' Court hearing would be in public whereas the offender as a child would not have been identified in public. This legislative anomaly should be addressed.
- 6.15 Review and amend current legislation and guidance to increase the opportunities for temporary release (see Recommendation 6.24.i).
- 6.16 The principle of a horizontal sentencing framework should be upheld, but it is recognised that the courts have limited sentences available to them in the Youth Court. In the circumstances a reparative condition as part of a Probation Order, and as an alternative to a financial penalty, could be made available in appropriate cases.
- 6.17 Recommendation 78b of the UN Committee on the Rights of the Child (2016) states that 'diversion measures do not appear in children's records' and Council of Europe guidance that advises 'criminal records of children should be non-disclosable on reaching the age of majority' (apart from in cases where serious offences have been committed). It is therefore recommended that guidance is issued to ensure that, a clear Criminal Records and Enhanced Disclosure Policy in respect of children should be developed.

Parish Hall Enquiries

6.18 There is consensus that the Parish Hall Enquiry System works well for most children and should be retained, but improvements and enhancements should be considered without undermining the unique ethos of community-based informalism that it represents.

(i) It is recognised that, since the 2010 Report, the Probation Service has taken a more proactive role in supporting the Parish Hall Enquiry. Although this development represents a clear improvement in practice, this is an opportune moment to review whether this supporting role could be improved or possibly even involve agencies such as the youth service. A task and finish group should consider how children can be better prepared for, and supported through, the PHE process; and how Centeniers can be best informed and prepared ahead of a child appearing before the PHE.

(ii) When appropriate, consideration should be given to making greater use of restorative resolutions and explore whether this process should be supported by a victim advocacy scheme.

Courts

6.19 Consideration should be given to how the Youth Court and Royal Court can make further progress towards being more child-friendly. An element of formality in proceedings is not necessarily to be removed completely, but in some cases a more informal and sensitive approach is appropriate. The courts would clearly benefit from receiving some information and guidance about children's capacity and disposition in advance of hearings. We therefore recommend that the Probation Service be tasked with engaging with courts in order to review how the appropriate information and guidance can be better communicated in advance of hearings.

6.20 Where an adult and a child below the age of 18 years appear in the Magistrates' Court, the Magistrates' Court should be permitted to modify its procedures.

6.21 Membership of the Youth Appeal Court should be widened to include a judge sitting with Jurats or former Youth Court Panel Members (provided the latter are up-to-date with their training).

6.22 As part of a wider commitment to inclusivity and widening participation, the current age restriction of 60 years should be lifted on Youth Court Panel members.

Custody

- 6.23 Although there does not appear to be a problem with excessive or inappropriate custodial sentencing, there remains a risk of children being deprived of their liberty due to the unavailability of appropriate accommodation. This can potentially result in children being held overnight in police custody and inappropriate custodial remands. As a matter of urgency we recommend that a Bail and Accommodation Strategy is developed to ensure children are not subject to the inappropriate deprivation of liberty in police custody and secure accommodation. A Task and Finish Group should be established to explore innovative ways of providing a continuum of appropriate, safe and secure accommodation that takes full account of issues related to welfare, mental health and criminogenic needs. This should include specialist foster care as well as suitable residential units. Urgent attention should also be given to how to address late requests for remand. Finally, the Task and Finish Group should revisit and review the appropriateness of whether the Youth Court should enjoy equivalent powers in respect of the Secure Accommodation Order as those available in Family Proceedings under Article 29 of the Children (Jersey) Law 2002.
- 6.24 The decline in the use of custodial sentencing since the Review in 2010 is to be welcomed, but this has resulted in the risk of social isolation for some children in Greenfields Secure Children's Home. It is therefore recommended that the walls of secure accommodation are more permeable in terms of developing a more integrated approach to the use of the facility. This could include,
- (i) Greater use of properly risk-assessed day release in order for children to partake of community resources such as education and training; and
 - (ii) Access to Greenfields being given to community-based agencies that work with young people.

Training

- 6.25 All professionals and volunteers who have contact with children in the youth justice system should receive high quality and ongoing specialist training on working with young people. The content of the training should include (a) an understanding of how children's rights should be applied in practice; and (b) Adverse Childhood Experiences, child development, and trauma-informed practice so that children currently at risk of being perceived as non-compliant are not unnecessarily criminalised. Those included in the training should be the States Police, Honorary Police, magistrates, advocates, probation officers and restorative justice practitioners.

Diversity, Recruitment and Monitoring

- 6.26 It should be the aim of every public service to reflect the community it serves in all its diversity. Accordingly consideration should be given to taking positive action to encourage applications from the widest possible range of potential candidates to all of the key voluntary and professional roles in the youth justice system.
- 6.27 In order to address diversity issues it is important to undertake monitoring in relation to recording the ethnic profile of children across all of the key domains of service provision, including youth justice. It is only through undertaking such monitoring that disparities and patterns of over-representation can be identified with confidence.

Research

- 6.28 It is acknowledged that research on Adverse Childhood Experiences is currently being undertaken and we would urge Jersey to continue its work in this area. In particular it is important to establish the prevalence of Adverse Childhood Experiences (and related issues) in the general population.

Appendix 1: Membership of Steering Group

Jersey Steering Group Members:

Brian Heath, MBE, Chief Probation Officer (Steering Group Chair)
Robert MacRae, QC, HM Attorney General
Sylvia Roberts, Law Officers' Department
Supt. Stewart Gull, States of Jersey Police
Danny Scaife, Chair Comite des Chefs de Police
Susan Devlin, Group Director, Children's Service
Julian Radcliffe, Director of Inclusion and Early intervention
Mike Capern, Head of Youth Service
Andrew Heaven, Director of Children's Policy
Gill Hutchinson, Building a Safer Society
James Lynch, Building a Safer Society
Dr Helen Miles (in the early stages of the Review)

External Steering Group Members

Dusty Kennedy, Director of Youth Justice Board Cymru (in the early stages of the Review), Assistant Police and Crime Commissioner in South Wales, and Freelance Consultant
Professor Jonathan Evans, University of South Wales (Lead author)

Consultee

Magistrate: Bridget Shaw

Appendix 2: International Framework of Children's Rights Relevant to Youth Justice

International Conventions on Children's Rights

- ▶ United Nations Convention on the Rights of the Child (1989)
- ▶ The Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) (1985)
- ▶ The Directing Principles for the Prevention of Juvenile Delinquency (Riyadh Guidelines) (1990)
- ▶ The Rules for the Protection of Juveniles Deprived of Liberty (The Havana Guidelines) (1990)
- ▶ The Standard Minimum Rules for Non-Custodial Measures (Tokyo Rules) (1990)
- ▶ The Economic and Social Council Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines) (1997)

United Nations Convention on the Rights of the Child

Article 2: 1-2 (Non-discrimination):

'States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.'

'States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.'

Article 3.1 (the welfare principle):

'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.'

Article 9.1 (separation from family):

'States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.'

Article 12.1-2 (seeking the views of the child):

'States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.'

‘For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.’

Article 15: 1-2 (Freedom of association and assembly)

‘States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.’

‘No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.’

Article 18:1-3 (appropriate assistance to parents):

‘States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.’

‘For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.’

‘States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.’

Article 37: a-d (cruel, inhuman and degrading treatment; and the deprivation of liberty):

‘No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment.’

‘No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time’

‘Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances’

‘Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance...’

Article 40.1 (promotion of child’s sense of dignity and worth; promotion of reintegration into society):

‘...recognise the right of every child as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of others and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child assuming a constructive role in society.’

Beijing Rules

Fundamental perspectives:

1.1: *To further the well-being of the juvenile and his or her family.*

1.2: *To develop conditions that will ensure a meaningful life in the community for the juvenile.*

1.4: *To make the administration of juvenile justice an integral part of the national development process of each country, within a comprehensive framework of social justice for all juveniles.*

Age of Responsibility:

4.1: *To not fix the beginning age at too low an age level, bearing in mind the facts of emotional, mental, and intellectual maturity.*

Aim of juvenile justice:

5.1: *To emphasise the well-being of the juvenile and ensure that any reaction to juvenile offenders shall always be in proportion to the circumstance of both the offender and the offence.*

Scope and discretion:

6.2: *To make efforts to ensure sufficient accountability at all stages and levels in the exercise of any such discretion.*

Protection of privacy:

8.1: *To respect the right to privacy at all stages to avoid harm being caused by undue publicity or by the process of labelling.*

8.2: *To not publish any information that may lead to the identification of a juvenile offender.*

The Riyadh Guidelines

Guidelines underpinned by diversionary, early intervention and non-punitive principles within a multi-disciplinary framework:

‘the successful prevention of juvenile delinquency requires efforts on the part of the entire society to ensure the harmonious development of adolescents’ (para. 2); ‘formal agencies of social control should only be utilised as a means of last resort’ (para. 5); and ‘no child or young person should be subjected to harsh or degrading correction or punishment measures at home, in schools or in any other institutions’ (para. 54).

The Havana Rules

Independence of the judicial process and the diversion from prosecution below the age of 18 years.

Deprivation of liberty should be a disposition of '*last resort*' and only used '*for the minimum period*' and in such cases the principles, procedures and safeguards provided by international human rights standards must be seen to apply as minimum and non-negotiable benchmarks.

Tokyo Rules

Standard Minimum Rules for Non-custodial Measures:

The Rules call attention to the need for greater community involvement and community-based responses to crime.

The Vienna Guidelines

Economic and Social Council Guidelines for Action on Children in the Criminal Justice System:

The guidelines point out and re-emphasise the young person's rights to be respected and that states should strive to establish and maintain a child/youth-oriented system.

Appendix 3: Summary of Methodology

As has been made clear in the main body of the Report, the Jersey Youth Justice Review did not have the resources to commission independent academic research or evaluation; although it is worth noting that the external consultants did design short questionnaires to capture the experience of Parish Hall Enquiries by children and their families. A student at University College Jersey has been recruited to undertake the fieldwork, but unfortunately the work has yet to be undertaken because, quite rightly, official and ethical approval has to be gained first. It is a piece of work that should be undertaken, but ideally the research should be broadened to gain an understanding of young people's perceptions of the key agencies involved in youth justice, including the police, youth court, probation service and other partners.

The Review has been informed by a rapid assessment approach, which is an intensive, team-based qualitative inquiry that can also draw upon available statistical data. The approach uses triangulation, iterative data analysis and – where possible – additional data collection in order to form a preliminary understanding of a situation, problem or phenomenon. The process in Jersey was driven by a Steering Group that drew upon the expertise and local knowledge of insiders in key agencies (see Appendix 1 for the membership) and two external consultants who good bring a measure of external challenge to the dynamics of the Group.

The Review received statistical data, annual reports and policy documents (including draft versions) from key agencies as well as local research. It should also be mentioned that the external Reviewers read probation service Personal Information Forms, Social Enquiry Reports and case files.

Additionally, the external members of the Steering Group consulted with a range of stakeholders and key informants. It should be noted that some of the meetings and conversations took place on a confidential, non-attributable, 'Chatham House Rules' basis. All of these conversations were extremely helpful, but it has made it difficult to evidence fully all of the judgements and conclusions included in the Report.

It is not possible to list all of those that assisted the Review, but they include the following:

- **The children of Jersey.** We did not meet as many children and young people as we would have wished, but those we did meet provided valuable insights into their lives and their experience of public services and the criminal justice system. We met children in two settings: the Youth Service's Move On Café ; and Greenfields Secure Children's Home.
- **Sir William Bailhache, Bailiff of Jersey.**
- **Deborah McMillan, Children's Commissioner for Jersey and Tara Murphy from the Children's Commissioner for Jersey Office.** We would like to record here our appreciation their findings from an island-wide consultation with children. The findings have been published (Children's Commissioner for Jersey, 2018) and we would urge people to read this publication in order understand more fully the wider context within which the Jersey Youth Justice Review has taken place.
- **Mark Capern (a Steering Group member) and Youth Service staff** at the Move On Café.
- **Probation and After Care Service Staff.**
- **Parish Hall Enquiry.** In addition to attending a Parish Hall Enquiry in St Helier, the external reviewers met with Centenier Danny Scaife (a member of the Steering Group) and members of the honorary police. It should be noted that Jonathan Evans visited a Parish Hall Enquiry as part of his work for the 2010 Review.

- **Youth Court Magistrate and Panel Members.** The external reviewers attended Youth Court and met with magistrates and Panel members.
- **A member of the Intensive Support Team.**
- **Chief Inspector Alison Fossey and a police custody officer.** It should be noted that an external reviewer visited the custody suite.
- **Jo Kennedy at Greenfields Secure Children's Home.** This included a tour of the facility.
- **Julian Blazeby, Director General for Justice and Home Affairs.**
- **Robert Macrae QC, Attorney General** (Steering Group member). An external reviewer had an individual meeting with the Attorney General.
- **Mark Rogers, Director General for Children, Young People, Education and Skills**

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Initial findings were presented to, and tested with, a wider audience of stakeholders and key informants on 3rd September 2018. This event fulfilled the function of a focus group. On the basis of that discussion a set of draft recommendations was presented to a meeting of the Steering Group on 21st September. On 19th October a draft Report was submitted for discussion at a meeting of the same group. The final Report is the end product of this process.

Appendix 4: A proposal for the Future Document

Integrated multi-agency working: A proposal for the future

Introduction

Whilst Jersey remains a safe place to live, work and thrive, agencies continue to work with a cross section of young people who through a range of activity including for example missing from home and school absence/exclusion, expose themselves to vulnerability, harm and sometimes criminality. Some of these young people are what might be described as high demand.

Intention & Objectives

In order to support these young people, a multi-agency group was established in the summer of 2018 to work with and support a small cohort of vulnerable, high demand young people.

This wasn't intended to replace or undermine any existing arrangements in place to support these young people, but rather supplement and provide for some intensive, problem solving and dynamic joined up co-ordinated activity.

It was and continues to be a multi-agency initiative involving the States of Jersey Police, Jersey Youth Service, Jersey Sport, The Bosdet Foundation, Children's Service, Education and Probation.

A targeted approach was developed which focused on a team around the school and a team around the community. The team around the school was led by Education and focused on getting the young people into school and engaging and keeping them there. The team around the community was led by Youth Service and centred around the move on café, 1:1 work, a range of group activities and working in hotspots to improve relationships with young people and their communities.

The initiative sought to achieve the following outcomes for those vulnerable young people identified:

- improved school attendance,
- reduced school exclusions,
- reduced criminal offending and anti-social behaviour
- reduced numbers of missing episodes

The attached figures show the success of the operation to date. Other benefits from the Operation have been a revision of the approach taken to young people being detained in Police Custody which is being formalised in AG guidelines for the Honorary Police. In addition the prosecution of young people and in particular looked after children has been reviewed and again will be subject to guidance from the AG

Proposal for the future

In order to embed the integrated multi-agency working that has been so successful in this initiative it is proposed that a virtual *Children's Integrated Support Team* (CIST) is established to continue the intensive collaborative work. They would work with vulnerable young people and families based on young people with poor school attendance or those who are excluded from school, those who are repeatedly missing and vulnerable or are becoming involved in criminal offending and anti-social behavior.

In order to secure intensive engagement from the team a multi-agency panel would meet once per month and review referrals from different agencies. All referrals would be subject to a triage process and would require to meet two or more of the above indicators. Each referring agency must demonstrate what they have done first to support the individual or family before a referral will be

accepted and if an individual is not already open to statutory services an early help assessment must accompany the referral.

Once a referral is accepted the operational group will formulate a plan and an exit strategy. Those taken on will be subject to intensive engagement from the team. Where criminal offending is identified the team will work closely with these young people to avoid criminalization and pursue other out of court outcomes.

Key to the success of the proposed pilot will be integrated multi-agency working and shared outcomes, real time information sharing by telephone conference twice weekly, bespoke intervention plans tailored to an individual's needs and an exit strategy written at the start so that the individual doesn't become overly dependent on services.

Governance arrangements would be as follows:

- The current strategic level group would become the strategic group for the **CIST**. They would meet quarterly to provide the shared governance and be chaired by Youth Services who will have the most involvement with the children.
- The current operational group would continue. They would meet monthly to consider the referrals and to formulate a plan and exit strategy around the individual and family.
- The operational group would report into the strategic group with a Q1, 2, 3 and 4 report and annual overview.

Alison Fossey
Superintendent – Operational Policing
States of Jersey Police

September 2018

Intervention Referral Form

Name of Child	
DOB and age	
Ethnicity:	
Home address:	
School attended:	
Sex (male or female)	
Referral Criteria Met (Must be 2 or more)	Poor school attendance Escalating number of school exclusions Criminal offending or anti-social behaviour Increasing number of missing episodes
Summary of involvement – this should be succinct and analytical and include information as to what has been done to date to support child/family. Please include chronology	
Has an early help assessment been completed if appropriate ? If yes please attach, if no please detail reasons why not below (please note	

referrals are not accepted without EH assessment).
Panel request approved by:
Panel decision and reasons
Outcome – (for data collection)
Resource agreed Resource declined Decision deferred to next panel Other action

Multi-Agency Initiative 2018 – Police Costs

Multi-Agency Initiative May – Aug 18	Total Number	Police Time (average hours)	Average Hourly Cost	Total Cost
Crime	74	6	£39	£17,316
ILogs	165	1	£39	£ 6,435
Missing Persons	125	6	£39	£29,250
Protection Notifications	218	1	£39	£ 8,502
Stop checks	238	0.25	£39	£ 2,083
Patrols	92	1184	£39	£46,176
Total	722	1198.25	-	£109,762

Subject Outcomes



Young Person	Offences				Incident logs				Missing Reports				School Attendance since intervention
	May	June	July	Aug	May	June	July	Aug	May	June	July	Aug	
1	6	0	0	0	18	1	4	0	2	2	0	0	11% increase
2	5	0	0	0	3	2	0	0	7	5	1	0	20% increase
3	7	0	0	0	12	2	3	0	4	5	0	1	14% increase only due to suspension (now attending)
4	3	1	1	0	6	2	2	0	0	0	0	0	47% increase
5	7	0	0	0	6	2	1	0	0	0	0	0	26% increase
6	2	0	0	1	7	2	6	5	4	3	7	12	Was 100% in June until placed with Foster parents
7	12	0	2	2	16	3	12	8	12	7	13	4	29% increase
8	4	1	0	1	10	3	5	1	2	0	0	0	17% increase
9	3	1	0	0	4	0	5	2	3	2	3	2	64% increase (100 % last 4 weeks)
10	12	0	0	1	15	0	1	4	14	0	6	4	
Total	63	3	3	5	97	17	31	20	48	24	30	23	

Appendix 5: Intensive Support Team Document

Intensive Support Team Procedures July 2015

Contents:

- 1. Introduction**
- 2. Referrals to the Team**
- 3. Allocations**
- 4. Initial Meetings**
- 5. The Family Work Plan**
- 6. Session Reports**
- 7. Review Meetings**
- 8. Closing the case**

1. Introduction

i) Aims:

- To keep young people within their own family/friend network when this is consistent with our duty to ensure that young people are not likely to suffer significant harm.
- To avoid unnecessary emergency admissions to care.
- To promote the return of young people who are looked after by the Children's Service to their own family and friends network.
- To support young people and their carer's in foster family placements where there is an identified risk of potential breakdown.
- To enable family, carers and friends to engage in and make decisions and plans about the welfare of young people.
- To provide a responsive service to carers and families to prevent the young person/young people becoming looked after by the Children's Service.
- To co-ordinate and arrange Family Group Conferences

2. Referrals to the Team

- Social Worker or other Professional discusses the family's needs with the family with reference to the young person's assessment, initial/core assessment, or Plan (if assessments are not current) and a decision is made whether to refer to the IST.
- Having discussed and explained referral to the family, Social Worker or other Professional completes the IST Referral Form with full details of the child's background, current situation, risk assessment, the reasons for referral, and the desired outcomes. The age range of the young person being referred will be 10 – 18 years, although the siblings of any age may be considered a part of the family work where appropriate.
- Social Worker or other Professional submits referral to P&R Panel, as directed.
- The referral should include current assessment and child's plan and any supporting information; initial core assessment; review documentation.
- If agreed, referral is emailed to IST ReferralsIST@health.gov.je

3. Allocations to the Team

- Any referrals can be allocated immediately by IST Manager for urgent cases. The IST Manager may request further information such as work that has been undertaken.
- Otherwise the allocation will agreed within 2 days of P&R Panel
- IST Manager will inform the Social Worker and/or other professionals about referral.
- Social Worker to provide young person and family with basic information about the service and obtain their agreement to work with the Intensive Support Team. (IST leaflet is given to the family at this point.)

4. Initial Meetings

i) IST PLANNING MEETING

- Case discussion between social worker and IST worker must take place prior to the IST work starting. These meetings should be used to clarify the information, highlight risks, and identify concerns around the family.
- The Draft Plan and introductions to the family should also be agreed.

ii) 1st FAMILY MEETING

- The IST worker will visit to meet the family and explains the role of IST; discuss resources, obstacles, outcomes, availability of family members to support the plan and timescales for the progress of the plan.

- Parents and young person will be asked to share their concerns; problems as they see them, any change required; and if anything would be unacceptable in their plan.
- Family to consider if family or friends who could not attend the meeting should also be involved.
-

5. The Family Work Plan

Following the Family Meeting, the IST worker talks about the Family Work Plan with their senior/manager/Social Worker.

It should:

- Be SMART
- Include consent for activities
- Be evidenced up by the IST worker in the sessions and emailed to the case holding social worker

6, Session Reports

- After each session with the Young Person or Family member the IST worker will write up the session report and forward this to the case holding Social Worker.
- The session reports will evidence the remit of work is being carried out.

7, Review Meetings

- IST Worker will undertake regular reviews. This is to be incorporated into the care planning process for the child ie, LAC Care Planning Meetings, Core groups, or CIN Reviews
- The work should also be reviewed via case discussions and in supervision at least every 4 weeks.
- IST will attend CP Conferences where possible
- Case discussions can take the form of joint supervision with the IST worker and the child's social worker if required.
- Reviews should always include the wishes and feelings of the young person and these should be recorded in their own words on the session report.

8, Closing the Case

- At the point of the closure of IST, the remit of work, aims and objectives have been formally reviewed and the IST worker, case holding Social Worker/Line manager agree to closure.
- Following the IST closure of the case any documentation held on the IST best practice would suggest that a more formal meeting is of benefit to the young person and their family in the ending process in their relationship with the IST worker.
- IST Worker provides the family with the IST Feedback Form
- Those documents which are not recorded on the young person's file will be passed to the responsible social worker/referring professional.

Appendix 6: Attorney General Guidance on Relevant Issues

6A: Code on Decision to Prosecute

Code on the decision to prosecute

Issued by Her Majesty's Attorney General for Jersey

Introduction

1) The decision to prosecute (ie to charge) an individual is a serious step. Fair and effective prosecution is essential to the maintenance of law and order. Even in a minor case a prosecution has serious implications for all involved - the victim, a witness and a defendant. Centeniers are to apply the Code to ensure that they make fair and consistent decisions about prosecutions.

2) The Code contains important information for those who work in the criminal justice system and the general public. It helps Centeniers to play their part in ensuring that justice is achieved. If a Centenier is in any doubt as to the application of the provisions of the Code then he or she should seek advice from a Legal Adviser or Crown Advocate from the Law Officers' Department.

General principles

3) Each case is unique and must be considered on its own. There are, however, general principles which apply in all cases.

4) The duty of the Centenier is to make sure that the right person is prosecuted for the right offence and that all relevant facts are given to the Court.

5) Centeniers must be fair, independent and objective. They must not let their personal views of the ethnic or national origin, sex, religious beliefs, political views or sexual preference of the offender, victim or witness influence their decisions. They must not be affected by improper or undue pressure from any source.

The Code tests

6) There are two stages in any decision to prosecute. The first stage is the **evidential test**. If the case does not pass the evidential test it must not go ahead no matter how important or serious it may be. If the case does pass the evidential test the Centenier must decide if a prosecution is warranted in the public interest.

7) The second stage is the **public interest test**. The Centenier will only start or continue a prosecution when the case has passed both tests. The evidential test and the public interest test are explained below.

The Evidential test

8) Centeniers must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each defendant on each charge. They must consider what the defence case may be and how that is likely to affect the prosecution case.

9) A realistic prospect of conviction is an objective test. It means that the Magistrate, a jury or bench of Jurats properly directed in accordance with the law is more likely than not to convict the defendant of the charge alleged.

10) When deciding whether there is sufficient evidence to prosecute, Centeniers must consider whether the evidence can be used and is reliable. There will be many cases in which the evidence does not give any cause for concern. There will, however, also be cases in which the evidence may not be as strong as it first appears. Centeniers must ask themselves the following questions:

Can the evidence be used in Court?

a) Is it likely that the evidence will be excluded by the Court? There are certain legal rules which might mean that evidence which seems relevant cannot be given at a trial. For example, is it likely that the evidence will be excluded because of the way in which it was gathered or because of the rule against using hearsay as evidence? If so, is there enough other evidence to ensure a realistic prospect of conviction?

Is the evidence reliable?

b) Is it likely that a confession is unreliable because (for example) of the defendant's age, intelligence or lack of understanding?

c) Is there material which might affect the credibility of the witness? For example, does the witness have any dubious motive that may affect his or her attitude to the case or a relevant previous conviction?

d) If the identity of the defendant is likely to be questioned, is the evidence about this strong enough?

11) Centeniers should not ignore evidence because they are not sure whether it can be used or is reliable. They should, however, look closely at it when deciding if there is a realistic prospect of conviction.

12) Where Centeniers have concerns over the possible exclusion of evidence, they should consult and be guided by the advice of the Police Legal Adviser.

The public interest test

13) In 1951, Lord Shawcross (Attorney General for England) made a classic statement on public interest which has been supported by Attorneys General ever since:

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"It has never been the rule in this country – I hope it never will be – that suspected criminal offences must automatically be the subject of prosecution" (House of Commons Debates, Volume 483, column 681, 29 January 1951).

14) The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. In cases of any seriousness a prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour. Although there may be public interest factors against prosecution in a particular case, often the prosecution should go ahead and those factors should be put to the Court for consideration when sentence is being passed.

15) Centeniers must balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender. Some factors may increase the need to prosecute but others may suggest that another course of action would be better. The following lists of some common public interest factors (both for and against prosecution) are not exhaustive. The factors which apply will depend on the facts in each case.

Some common public interest factors in favour of prosecution

16) The more serious the offence the more likely it is that a prosecution will be needed in the public interest. A prosecution is likely to be needed if:

- a) a conviction is likely to result in a significant sentence;
- b) a weapon was used or violence was threatened during the commission of the offence;
- c) the offence was committed against a person serving the public (for example, a police officer, prison officer or a nurse);
- d) the defendant was in a position of authority or trust;
- e) the evidence shows that the defendant was a ringleader or an organiser of the offence;
- f) there is evidence that the offence was premeditated;
- g) there is evidence that the offence was carried out by a group;
- h) the victim of the offence was vulnerable, has been put in considerable fear or suffered personal attack, damage or disturbance;
- i) the offence was motivated by any form of discrimination against the victim's ethnic or national origin, sex, religious beliefs, personal views or sexual preference;
- j) there is a marked difference between the actual or mental ages of the defendant and the victim or there is any element of corruption;
- k) the defendant's previous convictions or cautions are relevant to the present offence;

- l) the defendant is alleged to have committed the offence whilst under an order of the court;
- m) there are grounds for believing that the offence is likely to be continued or repeated (for example, by a history of recurring conduct);
- n) the offence, although not serious in itself, is widespread; or
- o) the offence has resulted in substantial financial loss.

Some common public interest factors against prosecution

17) A prosecution is less likely to be needed if:

- a) the Court is likely to impose a very small or nominal penalty;
- b) the offence was committed as a result of genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
- c) the loss or harm can be described as minor and was the result of a single incident (particularly if it was caused by a misjudgement);
- d) there has been a long delay between the offence taking place and the date of the trial, unless:
 - i) the offence is serious;
 - ii) the delay has been caused in part by the defendant;
 - iii) the offence has only recently come to light; or
 - iv) the complexity of the offence has meant that there has been a long investigation;
- e) a prosecution is likely to have a very bad effect on the victim's physical or mental health (always bearing in mind the seriousness of the offence);
- f) the defendant is elderly or is (or was at the time of the offence) suffering from significant mental or physical ill-health (unless the offence is serious or there is a real possibility that it may be repeated). Centeniers must balance the desirability of diverting a defendant who is suffering from significant mental or physical ill-health with the need to safeguard the general public;
- g) the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution simply because they can pay compensation);
- h) details may be made public which could harm sources of information, international relations or national security;

i) the defendant is already serving a lengthy custodial sentence and little may be gained by further prosecution; or

j) the defendant has been or will be subject to appropriate regulatory action or civil proceedings which adequately address the offending.

18) Deciding on the public interest is not simply a matter of adding up the number of factors on each side. Centeniers must decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

The relationship between the victim and the public interest

19) Centeniers act in the public interest and not just in the interests of any one individual. Centeniers must always think very carefully about the interests of the victim and the views expressed by the victim, and the impact that the offending has had upon them. If the victim is a child or person unable to speak for themselves, it may be necessary to take into account the views of the victim's family or other persons responsible for care of the victim. The views of victims should be taken into account at all stages, including considering whether or not it is in the public interest to commence a prosecution, discontinue a prosecution or to agree to certain pleas. The interests of the victim, are an important factor when considering where the public interest lies.

Young offenders

20) Centeniers must consider the interests of a youth when deciding whether it is in the public interest to prosecute. The stigma of a conviction can cause very serious harm to the prospects of a young offender or a young adult. Young offenders can be diverted from entry into the criminal justice system at a Parish Hall Enquiry without the need for a Court appearance. The younger the child, the less likely that prosecution will be in the public interest. However, the seriousness of the offence or the offender's past behaviour may make prosecution necessary. Young offenders should be prosecuted in the Youth Court (rather than the Royal Court) wherever circumstances permit.

The threshold test – charging in special circumstances

21) In exceptional circumstances the normal evidential test may not be capable of being met because not all the required evidence is available immediately, but there is a substantial risk the suspect may abscond or commit further serious offences. Therefore, if it is proposed that once the suspect is charged an application will be made to the court to keep a suspect in custody (or to seek substantial conditions imposed on bail) and the following conditions are met, the suspect may be charged even though the evidential test is not met at that point in time.

22) The conditions are:

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- a) the evidence required to apply the Prosecution Test is not yet available but is reasonably believed to exist;
- b) it can be obtained within a reasonable time;
- c) the seriousness or the circumstances of the case justify making an immediate charging decision
- d) there are continuing substantial grounds to object to bail;
- e) in all the circumstances of the case an application to withhold bail may properly be made; and
- f) a Legal Adviser from the Law Officers' Department agrees.

Charges

23) Centeniers should select charges which:

- a) reflect the seriousness of the offending;
- b) give the Court adequate sentencing powers; and
- c) enable the case to be presented in a clear and simple way.

24) This means that Centeniers may not always continue with the most serious charge where there is a choice. Further, Centeniers should not continue with more charges than are necessary.

25) Centeniers should never go ahead with more charges than are necessary simply to encourage a defendant to plead guilty to a few. In the same way they should never proceed with a more serious charge simply to encourage a defendant to plead guilty to a less serious one.

Accepting guilty pleas

26) Defendants may want to plead guilty to some, but not all, of the charges. Alternatively they may want to plead guilty to a different, possibly less serious, charge because they are admitting only part of the crime. Centeniers should only accept a defendant's plea if they think the Court is able to pass a sentence which matches the seriousness of the offending. Centeniers must never accept a plea just because it is convenient. If the offence is an offence against the person (that is to say a violent or sexual offence) then it should not be discontinued or lesser pleas accepted without consultation by the appropriate agencies with the victim or their family/carer if they are a child or unable to be consulted directly.

Consent to prosecution

27) Certain statutes provide that prosecution for an offence cannot be commenced without the consent of the Attorney General. If in doubt as to whether or not the offence falls within this category, the Centenier should contact a Legal Adviser from the Law Officers' Department.

Power of the Attorney General to overrule a Centenier's decision

28) Members of the public should be able to rely upon decisions taken by Centeniers. Normally, if a Centenier tells a person that there will not be a prosecution that is the end of the matter. However the Attorney General is the ultimate authority in respect of all prosecutions in the Island and has the power to overrule a Centenier's decision not to prosecute. In exercise of this power he may direct a Centenier to lay a charge. Where appropriate Centeniers should inform a person whom they have decided not to charge of this possibility.

29) Similarly the Attorney General may direct a Centenier not to proceed with a prosecution which has been commenced.

Conclusion

30) Centeniers form part of the Honorary Police. They are answerable to the Attorney General.

31) The Code for Centeniers is designed to make sure that everyone knows the principles which Centeniers apply when carrying out their work. Centeniers should take account of the principles of the Code when they are deciding whether to charge a defendant with an offence. By applying the same principles Centeniers are helping the criminal justice system to treat victims fairly and to prosecute defendants fairly and effectively.

32) The Code is issued by the Attorney General and is available from all Parish Halls and the Law Officers' Department, Morier House, St Helier, Jersey JE1 1DD.

33) It is also available at the States of Jersey Police Headquarters and also on the website of the Law Officers' Department.

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Robert MacRae QC
Attorney General
1 March 2016

6B: Guidance on Prosecution of Domestic Abuse

Her Majesty's Attorney General for Jersey

Code on the decision to prosecute:

Supplementary guidance

Domestic abuse

Introduction

1) This guidance is supplementary to the Code on the Decision to Prosecute dated 1 March 2016 ("the Code"). It does not modify or amend the Code but is rather guidance as to how the Code might be applied in relation to allegations of domestic abuse.

2) The purpose of issuing this Guidance is to ensure consistency of approach and clarity regarding the approach to evidential and public interest considerations in relation to allegations of domestic abuse.

Guidance

3) Definition of Domestic Abuse:

"Any incident or pattern of incidents of controlling coercive behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members, regardless of gender or sexuality."

4) This can encompass, but is not limited to, the following types of abuse psychological, physical, sexual, financial and emotional.

5) Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

6) Coercive behaviour is: an act or a pattern of acts of assaults, threats, humiliation and intimidation or other abuse that is used to harm, punish or frighten the victim.

7) Not all of the elements of abuse listed above amount to criminal conduct but identifying such conduct is important as it may support the specific criminal offence which is charged.

8) Men, women and children can be victims of domestic abuse. Family members are defined as mother, father, son, daughter, brother, sister and grandparents whether

directly related, in-laws or step-family. However, this is not an exhaustive list and may also be extended to uncles, aunts and cousins etc.

9) The same evidentiary and public interest considerations apply in domestic abuse cases irrespective of the ethnicities, sexualities, ages, disabilities, immigration status, religions or beliefs and socio-economic backgrounds of the parties.

10) The definition of domestic abuse refers to *“those aged 16 or over”* but this policy will also apply to criminal allegations which occur in a domestic context involving victims and abusers whatever their age.

11) Prosecutors should be careful not to make assumptions with regard to a victim’s age, or the nature of their relationship with their abuser, or physical stature/appearance or gender stereotypes. As much information as possible should be obtained from the police about the circumstances of the relationship to enable prosecutors to properly assess the specific requirements and needs of the complainant, and the level of support which is required and can be provided through relevant support services.

12) It may not always be straightforward to identify the primary aggressor and true complainant in a case of domestic abuse. It is possible in some cases that a primary ‘complainant’ of abuse or violence may have acted in a manner in which they are then seen as the perpetrator. For example, retaliation against the primary aggressor after years of abuse.

Evidence

13) Evidence that can be used to prove a case includes, **but is not limited to**, the complainant’s account, that of a friend, neighbour or child or young person who may have been nearby, any admissions by the suspect, calls to the emergency services (which may include evidence of admission) medical evidence, photographs and other forensic evidence.

Assessing the evidential test when a complainant who has made a written statement of complaint subsequently withdraws that complaint

14) Sometimes complainants will withdraw their complaints. That does not necessarily mean that the offence did not take place and, subject to the evidentiary test continuing to be passed, the case should be prosecuted. In cases where there is sufficient other evidence it might be possible to proceed without relying on the evidence of the complainant at all.

15) If this happens, the reason why the complainant has asked the case to be withdrawn must be ascertained. The complainant should be invited by the police to make a written statement, taken by an officer from the Public Protection Unit, which explains the reasons for wishing to withdraw support for the prosecution, indicating whether they have been pressurised to withdraw support and providing any other relevant information. The complainant should also indicate whether the contents of their original statement were true and confirm whether, notwithstanding their wish to withdraw the case, they will attend court to give evidence if a decision is made that the case should proceed.

16) In circumstances where the complainant states that their original complaint was true, for the purposes of assessing the evidential test, it should be assumed that the witness would attend Court and give evidence in accordance with the contents of their original complaint.

17) If in a subsequent statement a complainant indicates that the contents of their original statement were untrue in whole or in part, the effect of any inconsistency needs to be assessed in determining whether the evidential test is passed. In such circumstances Centeniers should refer the prosecution to a Legal Adviser.

18) If it is suspected that the complainant has been pressured or frightened into withdrawing the complaint, the States of Jersey Police should investigate further. If it is found that the complainant's withdrawal was based on fear or intimidation, the evidence will be considered and it will be decided whether further charges should be brought. Consideration will also be given to the possible application of Article 64 of the Police Procedures and Criminal Evidence (Jersey) Law 2003 in respect of first-hand hearsay. In such circumstances Centeniers should refer the case to a Legal Adviser.

19) If the evidential test is passed and the complainant does not want the prosecution to continue, Centeniers should consult with a Legal Adviser in order to assess whether a prosecution remains in the public interest.

Public Interest

20) In cases involving an allegation of domestic abuse, if the evidential test is passed, the public interest will be generally in favour of a prosecution even if, for example, the injury was minor or the parties have reconciled. A Parish Hall disposal will rarely be appropriate.

21) In assessing the public interest, information should be obtained about the family circumstances and any children or other dependants living in an abusive household. The impact on children must always be taken into consideration, as it may increase the seriousness of the offence and affect the final charging decision. It is also possible that other agencies or organisations (such as the Children's Service, schools or voluntary organisations etc) may have been made aware of the abuse, or other proceedings such as family proceedings may be taking place as a result. Where possible, officers should ask the police to seek such information to help inform the final charging decision. The receipt of this information should not delay the decision to charge where the evidentiary test is passed.

22) Care should be taken to differentiate between public and private interest considerations. For example, the fact that, if charged and/or convicted a suspect may lose their employment is a private rather than a public interest consideration. The personal consequences to a suspect should not provide him or her with any immunity against prosecution.

23) The following factors may also be useful when considering the public interest:

a) **the seriousness of the offence:**

- i) the more serious the offence, the more likely it is that a prosecution is required;
- ii) whether the offence is likely to be repeated;
- b) **the culpability of the defendant:**

- i) the extent to which the offending was pre-meditated;
- ii) whether the defendant has any previous convictions or out of court disposals;
- iii) whether the offending is likely to be continued, repeated or escalated;
- iv) the suspects age or level of maturity;
- v) whether the suspect was suffering from any mental or physical ill health before, or at the time of the offence taking place;

c) the circumstances of and the harm caused to the complainant:

- i. complainant's injuries – whether physical **or** psychological;
- ii. whether a weapon was used;
- iii. whether the offence was motivated by any form of discrimination against the complainant's ethnicity, gender identity or sexual orientation, mental or physical capacity, age, religion, immigration status, employment status, social background etc;
- iv. if there were any children or other vulnerable dependants living in the household;
- v. whether the offence took place in the presence of, or near a child;
- vi. whether the complainant is/was pregnant at the time of the offence;
- vii. any continuing threat to the health and safety of the complainant (irrespective of the relationship status), or anyone else who is, or may become involved;
- viii. the history of the relationship, particularly if there has been any violence in the past;

d) whether the suspect was under the age of 18 at the time of the offence;

e) any other factors which may present as relevant to the public interest.

Charging decision

24) All available charges should be considered. In the appendix to this Guidance, examples of behaviours constituting domestic abuse are set out with the corresponding criminal offence.

Avoiding charging delays – 'cooling off periods'

25) All charging decisions should be made speedily and with specific attention to the complainant's, and any children's or other dependants', safety in mind. Delaying charging decisions to allow the matter to 'cool off' for the complainant to decide whether he/she wants to support a prosecution, or for the complainant and/or defendant to 'calm down', should not occur. 5

26) Complainants may be further harassed or abused during any such period, and may be at enhanced risk as a result of their reporting the incident - it is therefore essential that the appropriate charging of a suspect takes place as soon as possible.

Parish Hall Enquiry

27) Cases should only be considered for disposal at a Parish Hall Enquiry when the evidential test is passed. It is not appropriate for the Parish Hall Enquiry to consider imposing sanctions in cases where there is insufficient evidence.

28) There will be cases when disposal at a Parish Hall Enquiry may be appropriate. This would be the case in the following circumstances:

- i) there has been no previous suggestion of domestic abuse made to the police or any third party;
- ii) the use or threat of force is minor;
- iii) the victim has indicated that he or she does not wish to support a prosecution; and
- iv) it is the assessment of the police that there are no safeguarding concerns with regard to the victim and any children or dependant living in the home.

29) In cases where all of the above factors are present, officers should consult with a Legal Adviser prior to listing the case for a Parish Hall Enquiry.

30) The particular dynamics of domestic abuse mean it is crucial that prosecutors proactively address the security and safety of the complainant, and any children, from the point of charge and throughout the prosecution. An incident of domestic abuse is not usually a one-off incident, and will, in most cases increase in frequency and severity. It is only after suffering abuse for some time that victims may come forward to report to the States of Jersey Police. Prosecutors need to be aware that certain actions, such as the complainant supporting a prosecution, may place the complainant and/or any children, or other family members at increased risk. In addition, many complainants will often be in a situation where they are unable to effectively resist the abuse perpetrated or escape from the perpetrator.

Bail

31) Where a perpetrator has been arrested for an offence of alleged domestic abuse and the evidential test is passed an officer's primary concern should be the safety of the victim and any children or dependant in the home. Centeniers and prosecutors should approach the States of Jersey Police (and through the Police, Independent Domestic Violence Advisers and other relevant agencies) to gather information, which among other things will include the notice to prosecutors prepared by the officer in the case. This will help officers to formulate decisions in relation to remands in custody and appropriate bail conditions to be imposed when perpetrators are released on conditional bail. The information will include:

- i) the complainant's whereabouts or living arrangements – the complainant's address should be cross-referenced with the perpetrator's address with regard to its suitability. In

particular, the proximity of the perpetrator's address to the complainant's address. Where the complainant is in a refuge or other safe location, the details should not be disclosed as part of the bail arrangements;

ii) the complainant's fears regarding the perpetrator's behaviour including their fear of further offences or repeat offending;

iii) information regarding the children or any other dependants (eg care arrangements for children, other family members, and/or risk of violence);

iv) areas/locations the complainant frequently visits attends (place of work, school, church, etc);

v) the impact on the complainant if the complainant and the perpetrator are at the same location for the purposes of work, education, etc;

vi) methods of contact between the complainant and the perpetrator;

vii) the defendant's history of complying with bail conditions.

32) Serious consideration must be given as to whether it is appropriate for perpetrators to be charged and detained in custody. Being detained in custody after charge ensures that enforceable Magistrate's Court bail conditions, designed to prevent further offending and/or interference with the alleged victim or children or dependant, are imposed prior to the perpetrator's release from custody. The safeguarding considerations relevant to the risks inherent in releasing a suspect without enforceable bail conditions must always be considered. In this regard, the interests of the victim and any children or dependant should always take precedence over interests of the suspect.

33) Cases involving an allegation of domestic abuse should be brought before the Magistrate's Court at the first available opportunity, which may not necessarily be the normal day for an offence committed in that Parish. It is important for the safeguarding of victims of domestic abuse and any children or dependant that the Court should be seized of the case at the earliest practical opportunity.

13 December 2016

6C: Code of Conduct for Centeniers acting in their prosecutorial capacity

Code of Conduct for Centeniers acting in their prosecutorial capacity

Interpretation

1) In this Code of Conduct, unless the context requires otherwise:

a) *“acting as a prosecutor”* includes making a charging decision, granting or declining bail, conducting a Parish Hall Enquiry, preparing the case for prosecution and presenting the prosecution at any stage of proceedings in the Magistrate’s Court by the Centenier concerned, whether or not the Centenier is physically present at the Magistrate’s Court. Acting as a prosecutor does not include the conduct of a Centenier when acting on police duties as a member of the Honorary Police, which is subject to the Regulations;

b) *“Centenier concerned”* means a Centenier whose conduct whilst acting as a prosecutor has been the subject of a complaint, report or allegation;

c) *“Code”* means the Discipline Code in this Code of Conduct;

d) *“complainant”* means the person by or on whose behalf a complaint is submitted;

e) *“complaint”* means any complaint in writing about the conduct of a Centenier acting as a prosecutor: (i) by a member of the public; or (ii) on behalf of, and with the written consent of, a member of the public;

f) *“Magistrate”* includes an assistant or relief magistrate;

g) *“prison”* means the States of Jersey Prison at La Moye, any other prison which may be built, any building or part of a building designated to be a prison under the Prison (Jersey) Law 1957, and any young offender institution;

h) *“Regulations”* means the Police (Honorary Police Complaints and Discipline Procedure) (Jersey) Regulations 2000;

i) *“relevant Parish”* means the Parish in which the Centenier serves as a member of the Honorary Police.

2) This Code of Conduct is without prejudice to the provisions of the Regulations. In the event of any inconsistency or contradiction between the provisions of this Code of Conduct and the Regulations the provisions of the Regulations shall have precedence and take effect. Complaints against a Legal Adviser are subject to the separate code of conduct and disciplinary procedure for lawyers working in the Law Officers’ Department.

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The Discipline Code and offences against discipline

The discipline Code in this Code of Conduct shall have effect whilst a Centenier is acting as a prosecutor.

(2) A Centenier commits a breach of the Code if the Centenier’s conduct does not meet the standard set out in the Code whilst the Centenier is acting as a prosecutor.

4) Whilst acting as a prosecutor a Centenier should follow the Attorney General’s Code on the decision to prosecute, as well as any supplementary guidance issued by the Attorney General.

5) An error in a decision to prosecute or an acquittal of the Defendant will not of itself amount to a breach of the Code by the Centenier concerned. However, where a Centenier is acting as a prosecutor and a complaint is made that alleges a breach of the Code in relation to a Centenier’s conduct concerning making a decision, granting or declining bail, conducting a Parish Hall Enquiry, preparing the case for prosecution, and presenting the prosecution then such conduct may be a breach of the Code which is subject to this Code of Conduct.

Application

6) This procedure shall apply where:

- a) The Attorney General receives a complaint in writing about a Centenier acting as a prosecutor in the Magistrate's Court; or
- b) The Attorney General becomes aware of conduct by a Centenier acting as a prosecutor which may constitute a breach of the Code provided that the conduct complained of is reduced to writing.

Threshold determinations

7) The Attorney General shall dismiss a complaint or not pursue conduct under paragraph 6b if:

- a) It does not adequately particularise the matter complained of or is not in writing;
- b) The Attorney General considers it to be vexatious, malicious, frivolous or trivial;
- c) It does not, even if true, amount to a breach of the [Discipline] Code;
- d) It is plainly without substance, untrue, mistaken or misconceived; or
- e) It refers to matters already dealt with and does not raise any material new consideration that would change the manner in which the matter has been disposed of.

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8) A complaint shall not be dismissed under paragraph 7a unless the complainant has been afforded an opportunity to provide adequate details of the complaint or an opportunity to put the complaint in writing. A complainant must provide further details as requested or put the complaint in writing within 15 working days of any such request by the Attorney General.

9) The Attorney General may dismiss a complaint if received more than six months after the last of the events giving rise to the complaint, and should do so unless the Attorney General is satisfied that exceptional circumstances exist which justify the making of the complaint outside that period.

10) If the Attorney General dismisses a complaint under paragraphs 7 or 9, the Attorney General shall inform the complainant in writing and provide a summary of reasons. If the Centenier is aware of the complaint he or she shall also be informed of the dismissal and reasons.

Procedure in relation to a complaint or conduct which meets the threshold determination

11) If the Attorney General does not dismiss a complaint that has been made under sub-paragraph 6a or conduct has come to the Attorney General's attention under sub-paragraph 6b, the Attorney General may:

a) refer the matter to the Chef de Police of another Parish for informal resolution of minor complaints in accordance with paragraphs 13 to 17 below; or

b) refer the matter to the Solicitor General for investigation in accordance with paragraphs 18 to 22 below.

Informal resolution of complaints or conduct

12) The Attorney General may not refer a complaint or conduct to the Chef de Police of a different Parish for informal resolution of minor complaints unless the Attorney General is satisfied that the complaint or conduct, even if proved, would not justify a criminal charge or a disciplinary hearing.

13) In the event that the Attorney General decides to refer a complaint or conduct to the Chef de Police of a different Parish for informal resolution:

a) The Attorney General shall direct the relevant Chef de Police in writing to deal with it in that way;

b) The relevant Chef de Police shall comply with the direction and inform the Attorney General of the outcome;

c) If the matter relates to a complaint made to the Attorney General under sub-paragraph 6a the Attorney General shall notify in writing the person who made

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the complaint that the matter has been referred to the relevant Chef de Police of the different Parish.

14) Informal resolution may include, but is not limited to, the following:

- a) Inviting the Centenier concerned to apologise in writing to a complainant;
- b) Holding an informal meeting with the Centenier concerned to resolve the issues; and/or
- c) Establishing an agreed course of action with the Centenier concerned including setting objectives, identifying timescales for implementation of such objectives, and the provision of additional training.

15) If the Chef de Police of the other Parish is informally resolving a complaint made in accordance with sub-paragraph 6a, the Chef de Police shall:

- a) Seek the views of the complainant and the Centenier concerned about the matter;
- b) Give the Centenier concerned the opportunity to respond to the complaint orally or in writing.

16) If the Chef de Police of the different Parish is resolving informally a matter that has come to the attention of the Attorney General in accordance with sub-paragraph 6b the Chef de Police shall give the Centenier concerned the opportunity to respond to the matter orally or in writing.

17) (1) Where:

- a) the Centenier concerned has been charged with a criminal offence; or
- b) there has been a complaint, report or allegation which indicates that the Centenier concerned may have committed an offence against discipline, whether or not it has been investigated, the Attorney General may, after consultation with the Connétable of the relevant Parish, suspend the Centenier concerned from office.

(2) The Attorney General may exercise the power to suspend a Centenier under this paragraph at any time from the time the Centenier concerned is charged with a criminal offence or the time that the Attorney General is informed of the complaint or the report or allegation is referred to the Attorney General until:

- a) the Attorney General decides not to prefer a disciplinary charge in respect of the conduct which was the subject of the criminal charge, complaint, report or allegation or directs that all disciplinary charges be withdrawn;
- b) the Centenier concerned has been charged with a breach of the Code and all such charges against the Centenier have been dismissed;

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c) the time limit for appeal against the decision finding the Centenier concerned guilty of a breach of the Code has expired; or

d) a decision has been made on an appeal against that finding or the punishment imposed in respect of it.

(3) Where the Centenier concerned is suspended under this Regulation, the Centenier shall be suspended until whichever occurs first of one of the events described in sub-paragraphs (2)(a) to (d) or a decision of the Attorney General to end the suspension.

(4) Where the Centenier concerned who is suspended is required to resign under paragraph 38, the Centenier shall remain suspended during the period of the Centenier's notice.

Investigation of complaints or conduct coming to the Attorney General's attention

18) (1) If the Attorney General decides to refer to the Solicitor General for investigation a complaint made in accordance with sub-paragraph 6a or conduct that has come to the Attorney General's attention under sub-paragraph 6b, the Solicitor General shall commence an investigation into the matter.

(2) In the event that the Solicitor General has a conflict of interest or is not available the investigation shall be undertaken by a Crown Advocate selected by the Attorney General.

19) An investigation shall take into account at least a statement from the Centenier under investigation and any information from a complainant. The Centenier may be interviewed and shall have the right to be accompanied at such interview by a legal representative or a colleague.

20) A written complaint shall be taken as the statement of any complainant for the purposes of the investigation and if necessary the complainant may be invited to a separate or further interview.

21) The investigation will normally be completed within 28 calendar days of the commencement of the investigation.

22) Following completion of the investigation the Solicitor General or Crown Advocate may:

a) Refer the matter back to the Attorney General with a recommendation that the matter be dismissed under paragraph 7;

b) Seek an informal resolution involving the Chef de Police of a different Parish in accordance with paragraphs 13 to 17; or

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c) Recommend that a disciplinary hearing be held if he or she considers, based on an investigation report or otherwise, that there is a prima facie case against the Centenier of the breach of the Code which cannot be dealt with informally.

Limitation on punishments

23) (1) No punishment of the kind described in paragraph 38 shall be imposed on a Centenier otherwise than upon a finding at a disciplinary hearing that the Centenier is guilty of a breach of the Code.

(2) A Centenier may not be dismissed or required to resign unless the Centenier has been given the opportunity to elect to be legally represented by an advocate or solicitor at the disciplinary hearing.

Notice of decision to prefer a disciplinary charge

24) (1) Where the Attorney General decides to prefer a disciplinary charge the Attorney General shall ensure that:

a) as soon as practicable, the Centenier concerned is given written notice of the decision complying with paragraph (2) below; and

b) not less than 21 days before the date of the disciplinary hearing, the Centenier concerned is given copies of documents required by paragraph (3) below.

(2) Written notice of a decision shall specify the conduct which it is alleged constituted a breach of the Code and the paragraph of the Code in respect of which that breach is alleged to have been committed.

(3) The documents of which copies are to be given to the Centenier concerned are:

a) any written statement the Centenier may have made to the Solicitor General or Crown Advocate;

b) an account of any oral statement the Centenier may have made to the Solicitor General or Crown Advocate; and

c) any other relevant statement, document or other material obtained during the course of the investigation, other than any report of the Solicitor General or Crown Advocate of the investigation pursuant to paragraph 22 above.

Notice of disciplinary hearing

25) (1) The Attorney General shall give the Centenier concerned not less than 21 days' written notice of the time, date and place of the disciplinary hearing.

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(2) The Attorney General shall, in every case where the Attorney General is of the opinion that a disciplinary hearing should have available the punishments of dismissal or requirement to resign, give the Centenier concerned, at the same time as the Attorney General gives notice pursuant to paragraph (1), written notice of:

- a) the opportunity to elect to be legally represented at the hearing; and
- b) the effect of paragraph 23.

Procedure on receipt of notice

26) (1) The Centenier concerned shall be invited to state in writing, within 14 days of the date on which the Centenier is notified that the last of the documents to be given to the Centenier pursuant to paragraph [24] has been so given:

- a) whether or not the Centenier accepts that he or she has committed a breach of the Code;
- b) in a case where the Centenier is given notice pursuant to paragraph 25, whether he or she wishes to be legally represented at the disciplinary hearing; and
- c) whether the Centenier proposes to call any witnesses to relevant facts at the hearing and the names and addresses of any such witnesses whose attendance the Centenier wishes the Attorney General to secure.

(2) Where, pursuant to paragraph (1)(c), the Centenier concerned states that he or she wishes the Attorney General to secure the attendance of witnesses, the Attorney General shall –

- a) order any witness who is a member of the Honorary Police to attend the disciplinary hearing; and
- b) cause any other witness to be given due notice that their attendance is desired and of the time and place of the hearing.

(3) Nothing in this paragraph shall require a disciplinary hearing to be adjourned where a witness is unable or unwilling to attend the hearing.

Advancement of disciplinary hearing date

27) Notwithstanding paragraph 27, a disciplinary hearing may take place less than 21 days after notice is given pursuant to that provision, if the Attorney General considers it appropriate in the circumstances, where:

- a) at the time the Centenier concerned receives notice pursuant to paragraph 26, the Centenier is detained pursuant to a sentence of a court in a prison; and

Doc Id: 926413 101-06

b) having been given the documents required by paragraph 24, the Centenier concerned does not elect to be legally represented at the hearing.

Hearing of disciplinary charges

28) A disciplinary charge shall be heard by the Attorney General.

Documents to be given to Centenier concerned

29) (1) Where the Centenier concerned accepts, in accordance with paragraph [30], that the Centenier has committed a breach of the Code the Attorney General shall cause a summary of the facts of the case to be prepared and a copy of it given to the Centenier concerned at least 14 days before the disciplinary hearing.

(2) If the Centenier concerned does not agree the summary of facts, the Centenier may give a response within 7 days of receipt of the copy of the summary.

(3) Where the Centenier concerned does not accept that the Centenier has committed a breach of the Code, no summary of facts shall be prepared.

Representation at disciplinary hearing

30) (1) The case against the Centenier shall be presented by the Solicitor General or a Crown Advocate.

(2) The Centenier concerned may, in any case, conduct his or her case in person.

(3) Where the Centenier concerned has been given an opportunity to elect to be legally represented and has so elected, the Centenier may be represented at the disciplinary hearing, at the Centenier's option, by an advocate or solicitor or by a member of the Honorary Police or, with the consent of the Attorney General, another person.

Procedure at disciplinary hearing

31) (1) Except as provided by this Code of Conduct, the procedure at a disciplinary hearing shall be determined by the Attorney General.

(2) The Attorney General may from time to time adjourn a disciplinary hearing if it appears to be necessary or expedient to do so for the due hearing of the case.

(3) The Attorney General shall review the facts of the case and decide whether or not the Centenier concerned is guilty of the breach of the Code with which the Centenier is charged, but shall not find the Centenier guilty unless:

a) the member has admitted the offence; or

Doc Id: 926413 101-06

b) the case is proved by the person presenting it on the balance of probabilities.

(4) Where the Centenier concerned is found guilty of a breach of the Code, the Attorney General shall determine whether, in all the circumstances, it would be reasonable to impose any punishment and, if so, what that punishment should be.

Attendance of Centenier concerned at disciplinary hearing

32) (1) The Attorney General shall order the Centenier concerned to attend the disciplinary hearing.

(2) If the Centenier concerned fails to attend the disciplinary hearing, it may be proceeded with and concluded in the Centenier's absence.

(3) Where the Centenier concerned informs the Attorney General in advance that the Centenier is unable to attend due to ill-health or some other unavoidable reason, the disciplinary hearing may be adjourned.

(4) Where, owing to the absence of the Centenier concerned, it is impossible to comply with any of the procedures set out in this Code of Conduct, that procedure shall be dispensed with.

(5) The Attorney General is entitled to reject a Centenier's request to resign before the disciplinary hearing and to proceed with the hearing.

Attendance of complainant at disciplinary hearing

33) (1) This paragraph applies where the disciplinary charge being heard arises from a complaint.

(2) Subject to sub-paragraph (3), the complainant shall be allowed to attend the disciplinary hearing and may, at the discretion of the Attorney General, be accompanied by a personal friend or relative.

(3) Where the complainant or any person allowed to accompany them is called as a witness at the disciplinary hearing, they and any person allowed to accompany them shall not be allowed to attend before the complainant gives their evidence.

(4) Where the Centenier concerned gives evidence then, after the person presenting the case has had an opportunity of cross-examining the Centenier, the Attorney General shall put to the Centenier concerned any questions which the complainant requests should be so put and might have been properly so put by the person presenting the case, or at the Attorney General's discretion, may allow the complainant to put such questions to the Centenier concerned.

(5) Except as provided in sub-paragraph (4), the complainant and any person allowed to accompany him or her shall neither intervene in, nor interrupt, the disciplinary hearing and, if the complainant or such person behaves in a disorderly or abusive manner or otherwise misconducts himself or herself, the Attorney General may exclude the complainant or such person from the remainder of the hearing. Doc Id: 926413 101-06

Attendance of others at disciplinary hearing

34) (1) Except as provided in this paragraph and paragraph 37, a disciplinary hearing shall be in private.

(2) The Attorney General may allow any advocate, solicitor or other such persons as the Attorney General considers desirable to attend the whole or such part of the disciplinary hearing as the Attorney General may think fit, subject to the consent of the Centenier concerned and the person presenting the case against the Centenier.

(3) The Centenier concerned may be accompanied at the hearing by any person other than an interested party.

(4) The Attorney General may allow witnesses to be accompanied at the hearing by a personal friend or relative.

Exclusion of public from disciplinary hearing

35) Where it appears to the Attorney General that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of the public, the Attorney General shall require any member of the public, including the complainant and any person allowed to accompany the complainant or any witness, to withdraw while the evidence is given.

Evidence at disciplinary hearing

36) (1) The Attorney General shall determine any question as to whether any evidence is admissible and as to whether any question should or should not be put to a witness.

(2) With the consent of the Centenier concerned, the Attorney General may allow any document to be adduced in evidence during the disciplinary hearing notwithstanding that a copy of it has not been given to the Centenier concerned in accordance with paragraph 24.

Record of disciplinary hearing

37) The Attorney General shall:

(1) ensure that a verbatim record of the proceedings at a disciplinary hearing is taken, if recorded by tape or other recording;

(2) if the Centenier concerned so requests, within the time for any appeal pursuant to the customary law jurisdiction of the Royal Court over members of the Honorary Police and after the Centenier has given notice of appeal, supply the Centenier with a transcript of the record or a copy of it.

Punishments

38) (1) Subject to paragraph 23, the Attorney General may impose any of the following punishments, that is to say:

Doc Id: 926413 101-06

- a) dismissal from the Honorary Police;
- b) requirement to resign from the Honorary Police, as an alternative to dismissal, taking effect either forthwith or on such date as may be specified in the decision;
- c) suspension;
- d) censure;
- e) reprimand.

(2) Any punishment imposed under sub-paragraph (1), except a requirement to resign, shall have immediate effect.

(3) The Centenier concerned may be dismissed or required to resign without the Centenier's being legally represented if the Centenier concerned:

- a) fails without reasonable cause to give notice in accordance with this Code of Conduct that the Centenier wishes to be legally represented;
- b) gives notice in accordance with this Code of Conduct that the Centenier does not wish to be legally represented;
- c) gives notice in accordance with this Code of Conduct that the Centenier wishes to be legally represented but, at any time, withdraws such notice; or
- d) fails to attend the hearing and the Attorney General elects to proceed.

Service to be considered before punishment imposed

39) Where the question of the punishment to be imposed is being considered:

(1) the Attorney General:

- a) shall have regard to the past service in the Honorary Police of the Centenier concerned, including any previous disciplinary findings, and
- b) may receive evidence from any witness whose evidence, in the Attorney General's opinion or in the opinion of the Centenier concerned, would assist in determining the question; and

(2) the Centenier concerned or the Centenier's representative shall be given an opportunity to make oral or, if appropriate, written representations concerning the question or to adduce evidence relevant to it.

Notification of finding

40) (1) At the conclusion of a disciplinary hearing, the Attorney General shall inform the Centenier concerned orally of the decision on the disciplinary charge and of any punishment imposed.

(2) The Attorney General shall, within the seven days following the conclusion of the disciplinary hearing, cause the Centenier concerned and the Connétable of the parish in which the Centenier serves to be given written notice of the decision and any punishment imposed and a summary of the reasons for them. Doc Id:

926413 101-06

Records of disciplinary proceedings

41) The Attorney General shall enter every case brought against a Centenier pursuant to this Code of Conduct in the book of record of disciplinary proceedings against members of the Honorary Police referred to in Regulation 29 of the Regulations, together with the finding on the case and a record of the decision in any further proceedings in connection with the case.

Delegation

42) The Attorney General may, if necessary, delegate to the Solicitor General or a Crown Advocate all or any of the Attorney General's powers and duties under this Code.

Service by post

43) Any notice or document to be given, sent or delivered pursuant to these Regulations may be given, sent or delivered by post.

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Discipline Code

1 Interpretation

This Discipline Code applies to Centeniers who are acting as a prosecutor.

2 Honesty and integrity

It is of paramount importance that the public has faith in the honesty and integrity of Centeniers. Centeniers should, therefore, be open and truthful in their dealings; avoid being improperly beholden to any person or institution and discharge their duties with integrity.

3 Fairness and impartiality

Centeniers have a particular responsibility to act with fairness and impartiality in all their dealings with the public and their colleagues.

4 Politeness and tolerance

Centeniers should treat members of the public and colleagues with courtesy and respect, avoiding abusive or deriding attitudes or behaviour. In particular, officers must avoid: favouritism of an individual or group; all forms of harassment, victimisation or unreasonable discrimination; and overbearing conduct to a colleague.

5 Lawful orders, directives, etc

The Honorary Police is a disciplined body. Unless there is good and sufficient cause to do otherwise, Centeniers must obey all lawful orders and directives including Directions given by the Attorney General and relevant (in the opinion of the Attorney General) orders or directions given by the Magistrate. Centeniers should support their colleagues in the execution of their lawful duties, and oppose any improper behaviour, reporting it where appropriate.

6 Confidentiality

Information which comes into the possession of a Centenier acting as a prosecutor should be treated as confidential. It should not be used for personal benefit and nor should it be divulged to other parties except in the proper course of duty. Similarly, Centeniers should respect as confidential information about the policy and operations of the Honorary Police and the States of Jersey Police unless authorized to disclose it in the course of their duties.

7 Criminal offences

Centeniers must report to the Connétable of the parish in which they serve any proceedings for a criminal offence taken against them. Conviction of a criminal offence may of itself be an offence against discipline.

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8 Alcohol

(1) Centeniers shall not consume any alcohol whilst acting as a prosecutor.

(2) Centeniers shall not act as a prosecutor having consumed alcohol before acting as a prosecutor to such an extent that their judgment or ability to perform their duties is likely to be adversely affected or is likely to bring the Honorary Police into disrepute.

9 Appearance

Unless on duties which dictate otherwise, Centeniers should always be well turned out, clean and tidy whilst acting as a prosecutor.

10 General conduct

Centeniers should not behave in a way which is likely to bring discredit upon the Honorary Police.

16 April 2018

6D: Letters of Guidance to Centeniers on Sexual Offences

H. M. ATTORNEY GENERAL
ROBERT MACRAE Q.C

H. M. SOLICITOR GENERAL
MARK TEMPLE Q.C



LAW OFFICERS' DEPARTMENT
MORIER HOUSE
ST HELIER
JERSEY JE1 1DD

E-mail: law.officers@gov.je

Our Ref: 403.20130035

29 February 2016

All Centeniers

Dear Centenier

I enclose Guidelines in relation to the prosecution of alleged sexual offenders presented before the Parish Hall.

I fully understand that in the vast majority of instances these Guidelines will be unnecessary.

However, it is very important to ensure consistency in relation to these matters even those where the allegations of indecency are minor.

In the unusual circumstance of there being a caution or warning proposed in respect of such matters, then, as indicated in the Directions, the consent of a lawyer employed by my Department will need to be obtained. Furthermore, it is important that the record of caution or warning indicates that the incident was of a sexual nature (e.g. indecent assault, indecent exposure, etc). It is not appropriate for the allegation to be characterised (for example) as a common assault when in fact it was committed in circumstances of indecency. In other words, any caution must correctly reflect the substance of the offence.

Yours sincerely

Robert MacRae QC
Attorney General

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Doc Id: 525159



Attorney General's Direction
The conduct of Parish Hall Enquiries
Supplementary Direction 1/2016
Sexual Offences

This Direction is supplemental to the Attorney General's Direction issued in relation to the conduct of Parish Hall Enquiries, and is subject to the Direction in relation to the prosecution of offenders under the age of fourteen years.

This Direction relates to allegations of sexual offences.

In relation to sexual offences, whatever their severity, if the evidential test is passed, the public interest will almost always be in favour of a prosecution.

It will only be in very unusual cases that prosecution will not be warranted.

Accordingly henceforth I direct:

- 1) That no allegation of a sexual offence, where the evidential test is passed, should be dealt with other than by way of prosecution without the consent of a Crown Advocate or Legal Adviser employed by the Law Officers' Department.
- 2) If, with the consent of a Crown Advocate or Legal Adviser employed by the Law Officers' Department, the Centenier is permitted to caution, warn or take no further action against the suspect, then the Centenier must record in writing the reasons for the decision not to prosecute, the name of the lawyer with whom he/she discussed the matter with at the Law Officers' Department and return the written record to States of Jersey Police Headquarters within 14 days and confirm that he advised the suspect that, in any event, the Attorney General is entitled to prosecute the suspect for the alleged sexual offence if he is satisfied that the decision not to do so was incorrect.

29 February 2016

Direction to Centeniers regarding Parish Hall Enquiries

Sexual Offences

Direction 1/2016

This Direction is supplemental to the Attorney General's Guidelines issued in relation to Parish Hall Enquiries, and is subject to the Direction 2/2015 given in relation to children and young persons.

This Direction relates to allegations of sexual offences.

In relation to sexual offences, whatever their severity, if the evidential test is passed, the public interest will almost always be in favour of a prosecution.

It will only be in very unusual cases that prosecution will not be warranted.

Accordingly henceforth I direct:

- (1) That no allegation of a sexual offence, where the evidential test is passed, should be dealt with other than by way of prosecution without the consent of a Crown Advocate or Legal Adviser employed by the Law Officers' Department.
- (2) If, with the consent of a Crown Advocate or Legal Adviser employed by the Law Officers' Department, the Centenier is permitted to caution, warn or take no further action against the suspect, then the Centenier must record in writing the reasons for the decision not to prosecute, the name of the lawyer with whom he/she discussed the matter with at the Law Officers' Department and return the written record to States of Jersey Police Headquarters within 14 days and confirm that he advised the suspect that, in any event, the Attorney General is entitled to prosecute the suspect for the alleged sexual offence if he is satisfied that the decision not to do so was incorrect.

29 February 2016

Doc: 525082
Ref: 403.20130035

6E: Letters of Guidance on the Prosecution of Children below the age of 14 Years

H. M. ATTORNEY GENERAL
ROBERT MACRAE Q.C.

H. M. SOLICITOR GENERAL
MARK TEMPLE Q.C.



LAW OFFICERS' DEPARTMENT
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E-mail: law.officers@gov.je

Our Ref: 201-08-01.20150005

5 November 2015

All Centeniers

Dear Centenier

Please find enclosed guidelines in relation to the prosecution of offenders under the age of 14 years and the role of Parish Hall Enquiries.

As you will know as recently as 2014, the States enacted the Criminal Justice (Young Offenders) (Jersey) Law, Article 2 of which re-enacted that the age of criminal responsibility is 10 years, in that Article 2 provided *"It shall be conclusively presumed that no persons under the age of 10 can be guilty of an offence."* The Law will soon be brought into force.

In fact, youth detention is not available as a sentence for children under the age of 15 years although a child can be detained in the rare circumstance of the commission of a grave crime under Article 5 of the Criminal Justice (Young Offenders) (Jersey) Law, 1994. If a child is convicted of murder or any other offence where the sentence fixed by law is imprisonment for life, the child will be sentenced to be detained during Her Majesty's Pleasure.

This direction given is partly having regard to the extension to Jersey, in April 2014, of the UK's ratification of the United Nations Convention on the Rights of the Child (the "UNCRC").

The UNCRC requires parties to adopt a minimum age of criminal responsibility and, where appropriate, measures for dealing with children accused of, or recognised as having, broken the criminal law without resorting to judicial proceedings. One of the consequences of the extension to Jersey of the UNCRC is that Jersey, England and Wales have been subject to criticism that the age of criminal responsibility is too low. There is a suggestion that the age should be in the region of 12 years (as it now is in other jurisdictions including Holland, Guernsey and Northern Ireland) or even higher, such as 14 years (Germany, Italy and Spain for example).

However, in reality, it is rare for children aged 10 and 11 to be prosecuted in Courts in Jersey and the principal objective of the criminal law in respect of children aged 10 and 11 is to secure the attendance of the child at the Parish Hall for the purpose of the child being diverted from the criminal justice system, not to participate in it for the purpose of punishment.

The Parish Hall system has been the subject of substantial investigation and enquiry in recent years and has been extensively commended, particularly in relation to its dealing with juvenile offenders. For example, the 2002 Review of Criminal Justice Policy in Jersey by Andrew Rutherford said:

"For young people, the Parish Hall Enquiry is considered to have particular value, offering a paternalistic approach that avoids a criminal conviction. The process has the potential to divert youths away from the criminal justice process and may provide youths with an opportunity to attend the Probation Service voluntarily, thereby delaying the decision as to whether to prosecute. Not only does it serve as an early caution to juveniles of the consequences if they persist with their anti-social behaviour, it also serves to inform parents, who are sometimes unaware, of what their children are up to. If a Centenier intervenes at the right time in a young life, he/she can turn the child's life around. Schools have been known to provide evidence for

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Doc Id: 485537

Parish Hall Enquiries, safe in the knowledge that the Enquiry can offer constructive alternatives that will not result in a criminal record."

The Report went on to say, in its conclusions and recommendations:

"The Parish Hall Enquiry is one of the most remarkable institutions to have evolved on the Island. It has no close parallel elsewhere. Long pre-dating the formal criminal justice process, the Parish Hall Enquiry developed as a core ingredient of the honorary police service. The Parish Hall Enquiry, in modern parlance, seeks the localised resolution of criminal events outside the formal process."

Similar remarks were made in the 2008 Report of the Howard League for Penal Reform, which conducted a review of the Jersey youth justice system. The Howard League said:

"5.16 We were able to observe a PHE in action. We saw four young people dealt with through this system, none of whom were referred for prosecution. The enquiry was held in an exemplary manner with an excellent balance of firmness, combined with a friendly sensitivity to the circumstances of the young person and their family, and the circumstances leading to the offence."

5.17 In general terms we believe the PHE is an excellent method of dealing with children and young people in trouble with the law, and clearly has the potential for diverting the great majority of children away from the youth justice system, in a positive and constructive manner. We agree with Rutherford that the rôle of the Centenier "in appropriately diverting cases away from the criminal justice process, is one that should be consolidated."

5.18 We also agree with the most extensive study of the PHE system that we have found by Miles and Raynor. This study found that the PHE "can provide a local, timely, inclusive, sensitive, needs-based, independent forum to deal with a wide range of norm-violating behaviour and social disorder." Miles and Raynor also found that "participants reported high levels of satisfaction with the process" and that "there is potential to consider how enquiries might usefully deal with more serious offences, particularly those dealing with public order."

The attached guidelines are designed to ensure that, in relation to young children (aged 10 or 11), their entry into the criminal justice system is a wholly exceptional course, and that there should be a presumption against such entry in respect of children aged 12 or 13. This direction will also meet the concerns expressed by the Howard League in that it will ensure that the use of the Parish Hall Enquiry in these cases is consistent across the Parishes, that there are no inappropriate decisions to prosecute and no inappropriate by-passing of the Parish Hall Enquiry system.

This policy will be formally reviewed every five years but informally reviewed annually in the interim in order to ensure that the principal focus in terms of young offenders is that they do not enter the criminal justice system, save in the limited circumstances referred to in the direction, and are assisted by the Children's Service, the Probation Service and the Parish Hall Enquiry in diverting from the Courts.

Yours sincerely



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Attorney General's Direction

The conduct of Parish Hall Enquiries

Supplementary Direction

Prosecution of offenders under the age of fourteen years

The Parish Hall Enquiry has been recognised, particularly in the case of children and young people, as an excellent way of diverting the great majority of children away from the youth justice system in a positive and constructive manner. The rôle of the Parish Hall Enquiry needs to be preserved and enhanced so as to ensure that it is a swift alternative to court based justice and ensures that children's needs are considered in a private, local, timely, sensitive forum in order to deal with any difficulties they have, if possible in the presence of their parents, social workers and any other persons who may be able to assist them. In particular, where appropriate, the children attending Parish Hall Enquiries should be assisted by the Children's Service and, where appropriate, voluntary supervision by the Probation Service. If at all possible, the Parish Hall Enquiry should also allow children the opportunity to make good and repair any harm done by their behaviour to any victim or the community as a whole.

Although the age of criminal responsibility remains 10 years in Jersey, henceforth I direct:

- 1) That in relation to children under the age of 12 years prosecution should only occur in the most exceptional of cases and only with my consent.
- 2) In the case of children over 12 years and under 14 years, there should be a presumption against prosecution and prosecution should only take place with my consent or the consent of a Crown Advocate in my Department.

These guidelines are to take effect immediately.

5 November 2015

Doc No: 485554

H. M. ATTORNEY GENERAL
ROBERT MACRAE Q.C
H. M. SOLICITOR GENERAL
MARK TEMPLE Q.C



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Our Ref: 201-08-01.20150005

30 September 2016

All Centeniers

As discussed at the Centeniers Quarterly Meeting yesterday I enclose a Direction that replaces the one I issued in November last year. The amendments are not substantial and are only to paragraphs (2) extending the power to consent to Legal Advisers and (3) which confirms that consents must be in writing.

Yours sincerely

Robert MacRae QC
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Doc Id: 640857



Attorney General's Direction

The conduct of Parish Hall Enquiries

Supplementary Direction 3/2016

Prosecution of offenders under the age of fourteen years

The Parish Hall Enquiry has been recognised, particularly in the case of children and young people, as an excellent way of diverting the great majority of children away from the youth justice system in a positive and constructive manner. The rôle of the Parish Hall Enquiry needs to be preserved and enhanced so as to ensure that it is a swift alternative to court based justice and ensures that children's needs are considered in a private, local, timely, sensitive forum in order to deal with any difficulties they have, if possible in the presence of their parents, social workers and any other persons who may be able to assist them. In particular, where appropriate, the children attending Parish Hall Enquiries should be assisted by the Children's Service and, where appropriate, voluntary supervision by the Probation Service. If at all possible, the Parish Hall Enquiry should also allow children the opportunity to make good and repair any harm done by their behaviour to any victim or the community as a whole.

Although the age of criminal responsibility remains 10 years in Jersey, henceforth I direct:

- 1) That in relation to children aged 10 or 11 years prosecution should only occur in the most exceptional of cases and only with my consent.
- 2) In the case of children aged 12 or 13 years there should be a presumption against prosecution and prosecution should only take place with my consent or the consent of a Crown Advocate or Legal Adviser from my Department.
- 3) Consent to charge under this Direction shall be given in writing (including by e-mail).

These guidelines are to take effect immediately.

30 September 2016

Ref: 201-08-01.20150005
Doc: 640867

6F: Letter of Guidance on Controlled Drugs

H. M. ATTORNEY GENERAL
ROBERT MACRAE

H. M. SOLICITOR GENERAL
HOWARD SHARP Q.C.



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Our Ref: RM/SB 403.20150006

All Centeniers.

16th June, 2015.

Attorney General's Directive 1/2015

Personal amounts of certain controlled drugs

Having consulted with interested parties I believe that it is in the public interest for certain cases of possession of controlled drugs to be dealt with by way of written caution at Parish Hall level rather than by prosecution.

The attached Guidelines should be applied in determining whether a particular case is suitable for disposal in this manner.

This replaces the Guidance issued by the Attorney General in 1998.

Visitors to the Island

There will be some cases where the offender is a short-stay visitor to the Island when attendance upon the Alcohol and Drugs Service will not be practical. In such cases, where the other criteria as listed are met, the Centenier may still give a written caution.

Written caution

It is important that the caution should be recorded in writing so that a record of the caution will be maintained by the States of Jersey Police. This will mean that if any person re-offends, the Centenier dealing with the matter will know that the offender does not fulfil the first criterion set out. It should be made clear that any further offending will result in prosecution.

General Note

Finally, whilst each case must be considered on its merits, and a Centenier retains a discretion (subject to the Attorney General's direction) as to how to deal with the matter before him, it is important to ensure fairness and consistency. Centeniers should only depart from these Guidelines where they are satisfied that there are good grounds for doing so.

Yours sincerely,

A handwritten signature in dark ink, appearing to be 'R Macrae'.

Attorney General

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CENTENIER WRITTEN CAUTION GUIDELINES

TYPE OF DRUG	QUANTITY	CLASS
COCAINE	up to 2 grams – consent of Attorney General required	A
ECSTASY	up to 2 tablets or – consent of Attorney General required	A
	up to 1 gram of MDMA (powder form)	
METHADONE	zero tolerance	A
HEROIN	zero tolerance	A
(Diamorphine)		
CRACK	zero tolerance	A
(Cocaine freebase)		
CANNABIS OIL	zero tolerance	A
CANNABIS	up to 15 grams – resin and herbal	B
AMPHETAMINE	up to 2 grams	B
SYNTHETIC CANNABINOIDS	up to 2 grams	B
ETHYLPHENIDATE	up to 2 grams	B
DESMETHYL TREMADOL	up to 2 tablets	B
MEPHEDRONE	up to 2 grams	B
*KETAMINE	up to 5 tablets	B
	up to 2 grams (powder form)	
*SUBUTEX	zero tolerance	B
(Buprenorphine)		
BZP	up to 5 tablets	C
(Benzylpiperazine)	up to 2 grams (powder form)	

*BENZODIAZEPINES	on a case by case basis and where criteria below are met	C
*DIAZEPAM	tablets totalling 30 mg	C
*STEROIDS	on a case by case basis and where criteria below are met	C
*TRAMADOL	on a case by case basis and where criteria below are met	C
*DF 118	on a case by case basis and where criteria below are met	C

CRITERIA

1. First drugs offence.
The opportunity of being dealt with at the Parish Hall should only be offered once. Accordingly, if an offender has a conviction in connection with controlled drugs or if he has previously received a written caution at any Parish Hall, then a prosecution should follow.
2. Individual must admit the offence.
3. No evidence of dealing/onward distribution.
4. Investigating officer is satisfied that the commodity in question is a drug.
5. Individual must agree that they will be contacted by the Alcohol and Drug Service regarding drug education; and
6. The quantity of the drug falls within the quantities identified above.

For possession of class A drugs not listed above, prosecution.

For possession (or importation of personal use only) of small amounts of other Class B and Class C drugs where the criteria 1 to 5 set out above are met, consult the Law Officers' Department.

*Non prescribed

NB. Weights above are weights of the drug as seized and not the weight of the "pure" drug within the amount seized.

Appendix 7: Statistical Data

7A: Number and Ages of Children Committing Offences (2010-2018)

Source: States of Jersey Police

<u>Age of offender</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>Grand Total</u>
7									1	1
9					2	1		2		5
10	7	2	2	1	6	10	4	1		33
11	16	3	1	1	16	17	3	3	2	62
12	34	28	17	6	14	36	15	19	6	175
13	79	41	39	17	11	37	20	36	18	298
14	71	68	27	62	32	24	34	49	45	412
15	83	62	38	39	57	26	20	82	21	428
16	111	60	40	58	64	47	21	39	28	468
17	137	86	54	62	72	48	50	31	33	573
Grand Total	538	350	218	246	274	246	167	262	154	2,455

7B: Child Offending by Age and Offence Category (2017-2018)

Source: States of Jersey Police

Year	Offences	Age of offender										Grand Total Repeats in brackets
		7	9	10	11	12	13	14	15	16	17	
2017	Affray								2		1	3
	Annoying/obscene telephone calls								1			1
	Assault on police/prison officer					1		1	1			3
	Breaking and entering (dwelling, crime committed)		2				4			1		7
	Breaking and entering (other than a dwelling)								4	2	2	8
	Common assault					5	5	10	13	2	2	37
	Dangerous driving									1	2	3
	Disorder/anti social behaviour			1		6	3	7	3	3		23
	Drug (possession of controlled substance)						1		3	4	12	20
	Drug (possession with intent to supply)										1	1
	Drug (supplying controlled substance)								1			1
	Fire Service Law (statutory arson)				1	2						3
	Firearms Law offences							1	2			3
	Grave and criminal assault				1	1	2	4	6	2		16
	Illegal entry (other than a dwelling)								2			2
	Indecent assault on a female								2	8	1	11
	Indecent exposure										1	1
	Larceny (other)							2	2	1	1	6
	Larceny by finding							1	3	1		5
	Larceny from unattended motor vehicle							1	2			3
	Larceny of a pedal cycle						1		4	2	2	9
	Larceny shop					1	2	16	12	8	4	43
	Malicious damage (to other buildings)						4	2	1			7
	Malicious damage (to other property)								3	1		4
	Malicious damage (to vehicles)						2		1	1		4
	malicious damage to dwelling						3	2	5	1		11
	Possess/distribute indecent images of child					3	8	1	4		1	17
	Possession of offensive weapon									1		1
	Receiving/hiding/withholding stolen property								2		1	3
	TADA (motor vehicle)						1	1	2			4
	TADA (pedal cycle)				1							1
	Tampering with a motor vehicle								1			1
2017 Total			2	1	3	19	36	49	82	39	31	262 (26)
2018	All other offences							1				1
	Assault on police/prison officer							1				1
	Breaking and entering (dwelling, crime committed)									1		1
	Breaking and entering (other than a dwelling)									5		5
	Common assault					3	2	6	5	1	3	20
	Dangerous driving									1	1	2
	Disorder/anti social behaviour						1	9	2		1	13
	Drug (import controlled substance)										1	1
	Drug (possession of controlled substance)						1		2	5	2	10
	Drug (possession with intent to supply)										1	1
	Firearms Law offences	1									1	2
	Fraud (cheque and credit card)							2				2
	Grave and criminal assault							2	1			3
	Illegal entry (dwelling, crime committed)									1		1
	Larceny (from dwelling)						1					1
	Larceny (from person)				1							1
	Larceny (other)					1	1	1				3
	Larceny shop						3	6				9
	Malicious damage (to other buildings)				1			1	1			3
	Malicious damage (to other property)						1	1	1	1		4
	Malicious damage (to vehicles)					1	1	1		3		6
	malicious damage to dwelling							1	2	1		4
	Possess/distribute indecent images of child						1	3	2			6
	Post Office Law offences									1		1
	Receiving/hiding/withholding stolen property							1		1		2
	Robbery (business property)								1			1
	TADA (motor vehicle)								2			2
2018 Total		1			2	5	12	36	19	21	10	106 (15)
Grand Total		1	2	1	5	24	48	85	101	60	41	368 (38)

7C: Youth Court Statistics (2005-2017)**Table 2 - YOUTH COURT**

		2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1	Total Cases ¹	460	313	321	327	344	253	179	71	62	108	90	61	105
2	Total Youths ²	275	205	215	218	219	171	130	55	51	71	72	51	63
3	Royal Court Committals ³	4	6	12	13	28	9	4	1	2	0	7	0	2
4	Arrests ⁴	35	24	25	20	10	3	4	0	1	2	1	1	1
5	Remands ⁵	507	437	484	372	291	183	145	56	84	111	84	112	107

Notes:

1: Total cases is the number of completed charge sheets and/or Representations (breaches of Binding Over Orders, Probations and/or community Service Orders). This is a 'blunt' instrument as it does not show the criminality in that it is the norm that more than one offence is detailed on a charge sheet even when there is no connection to the offences other than the accused.

2: Total Youths is the youths associated with the total cases. Again it is the norm that individual youths will be seen by the Youth Court a number of times during the year e.g. in 2017 a number of the 'total Cases' belonged to one youth but 'Total Youths' would not reflect this but instead each appearance would be recorded as a separate youth – in this case 14

3. Royal Court Committals – simply the number of charge sheets that were committed to the Royal Court – the individual Youths would have been included within the data in row 2

4. Arrests – the number of Arrest orders issued

5. Remands – the number of cases that were remanded off e.g. for either pleas, trials or sentencing. Only a very small proportion of these remands would be a remand into Youth Detention

7D: Statistics from Jersey Probation and After Care Service (Parish Hall Enquiries, Statutory Supervision, etc.)

Parish Halls

The number of young people appearing at Parish Hall Enquiries has risen from the drop seen in the previous two years with a 17% increase on 2011, although numbers are still generally down on previous years:

	2008	2009	2010	2011	2012
PHE - Grouville	6	3	7	5	2
PHE - St. Brelade	29	29	22	16	10
PHE - St. Clement	24	40	22	30	66
PHE - St. Helier	259	234	153	168	186
PHE - St. John	2	4	0	4	0
PHE - St. Lawrence	12	15	4	14	9
PHE - St. Martin	6	6	5	4	13
PHE - St. Mary	2	2	0	2	4
PHE - St. Ouen	1	7	10	3	6
PHE - St. Peter	20	17	8	5	12
PHE - St. Saviour	40	42	55	45	39
PHE - Trinity	5	1	2	3	2
Total	406	400	288	299	349

206 (59%) of Parish Hall cases were first offenders, a slight increase on last year (55%). The main offence groups were road traffic (54%); public order (19%); larceny (8%); violence (5%) and malicious damage (5%).

This compares to 56%, 21%, 18%, 6% and 5% respectively for 2011.

20 cases were sent from Parish Hall to Youth Court during 2012 (6 in 2011; 7 in 2010). 2 cases were also sent to Magistrate's Court. This increase is more than compensated for by a reduction in the number of children sent directly to Court from Police H.Q

There has been a 44% overall decrease in the number of supervisions imposed at Parish Hall, 20 this year compared to 36 in 2011:

Supervision type:	2009	2010	2011	2012
Deferred dec with RJ	15	16	17	9
Deferred dec with VS	20	22	12	9
Deferred dec with Alc & Drug Education	6	6	7	2
Total	41	44	36	20

	Social Enquiry Reports				
Court	2008	2009	2010	2011	2012
Youth Court	70	51	53	47	15

	Stand-downs				
Court	2008	2009	2010	2011	2012
Youth Court	21	17	21	15	14

	New Probation Orders
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Court	2008	2009	2010	2011	2012
Youth Court	40	56	35	29	22

New Community Service Orders					
Court	2008	2009	2010	2011	2012
Youth Court	13	16	20	9	5

Custodial Supervisions i.e Youth Custody of 4 months or more.

	2008		2009		2010		2011		2012	
	Adult	Yth	Adult	Yth	Adult	Yth	Adult	Yth	Adult	Yth
Youth Crt	0	4	0	2	0	4	0	3	0	0

Parish Hall Enquiries

Parish Hall Enquiries attended by JPACS increased by 9.5% in 2017:

	2013	2014	2015	2016	2017
PHE - Grouville	3	3	1	1	5
PHE - St. Brelade	24	17	19	25	14
PHE - St. Clement	35	29	34	21	30
PHE - St. Helier	167	153	113	100	112
PHE - St. John	1	0	0	3	0
PHE - St. Lawrence	5	9	4	2	8
PHE - St. Martin	1	5	8	4	3
PHE - St. Mary	5	6	5	3	4
PHE - St. Ouen	2	4	1	0	4
PHE - St. Peter	12	9	7	7	5
PHE - St. Saviour	26	24	40	31	32
PHE - Trinity	0	1	3	2	1
Total	281	260	235	199	218

120 cases (55%) at Parish Hall Enquiries were first offenders.

Road and Motor traffic continues to be the main offence group at 56%, followed by public order (22%), larceny (8.5%), drugs offences and violence (both 8%).

27 cases were sent from Parish Hall to Youth Court during 2017, slightly up on the 23 in 2016.

Supervision numbers from Parish Hall increased by 26% compared to 2016 with an increased use of Restorative Justice:

Supervision type:	2013	2014	2015	2016	2017
Deferred decision with RJ	9	7	9	8	18
Deferred decision with VS – u18	13	8	6	6	7
Deferred decision with VS – 18+	-	-	4	-	-
Deferred decision with Alcohol & Drug Education	0	3	3	9	4
Total	22	18	22	23	29

Restorative Justice (RJ)

The yearly summary reveals RJ officer involvement in relation to 54 clients across the spectrum of all supervision types, a similar number to 2016.

The work undertaken included:

- 14 face to face apologies, (10 in 2016)
- 10 letters of apology (up from 2 in 2016)
- 2 offenders carried out work in order to make amends (4 in 2016)
- 7 Restorative Justice Conferences were held (5 in 2016)
- RJ client meetings included: 6 prison visits, 8 school visits and 42 office meetings.

Additionally a number of children offered to make amends by carrying out work, however due to their age, health and safety or insurance issues this has not always been possible.

Social Enquiry Reports					
Court	2009	2010	2011	2012	2013
Youth Court	51	53	47	15	28
Social Enquiry Reports					
Court	2013	2014	2015	2016	2017
Youth Court	28	37	25	32	30
Stand-downs					
Court	2009	2010	2011	2012	2013
Youth Court	17	21	15	14	5
Stand-downs					
Court	2013	2014	2015	2016	2017
Youth Court	5	12	9	2	2

New Probation Orders					
Court	2009	2010	2011	2012	2013
Youth Court	56	35	29	22	15
New Probation Orders					
Court	2013	2014	2015	2016	2017
Youth Court	15	36	12	14	20*

*4 children have had 2 orders each in Youth Court

New Community Service Orders					
Court	2009	2010	2011	2012	2013
Youth Court	16	20	9	5	5
New Community Service Orders					
Court	2013	2014	2015	2016	2017
Youth Court	5	9	8	7	8

New Custodial supervisions

2009		2010		2011		2012		2013	
Adult	Yth	Adult	Yth	Adult	Yth	Adult	Yth	Adult	Yth
Youth Crt	0	2	0	4	0	3	0	0	0
2013		2014		2015		2016		2017	
Adult	Yth	Adult	Yth	Adult	Yth	Adult	Yth	Adult	Yth

Youth Crt	0	0	0	1	0	1	0	1	0	1
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2016 also 1 custodial supervision from Royal Court

Voluntary Supervision from PHE

Accommodation	Nr.	%
Residentially qualified	20	90.9

Supervision type:	2009	2010	2011	2012	2013
Deferred dec with RJ*	15	16	17	9	9
Deferred dec with VS	20	22	12	9	13
Deferred dec with Alc & Drug Education	6	6	7	2	0
Total	41	44	36	20	22

Supervision numbers from Parish Hall increased by 26% compared to 2016 with an increased use of Restorative Justice:

Supervision type:	2013	2014	2015	2016	2017
Deferred decision with RJ*	9	7	9	8	18
Deferred decision with VS – u18	13	8	6	6	7
Deferred decision with VS – 18+	-	-	4	-	-
Deferred decision with Alcohol & Drug Education	0	3	3	9	4
Total	22	18	22	23	29

*N.B. Children on VS, Probation Orders and in custody also complete RJ – this figure is for those diverted with RJ expectation alone.

Caseload of under 18s as at 22.10.18 = 26 cases / 22 individual clients

Accommodation and Living Status shown as at start of order.*

Living status	Nr.	%
Share with parents	19	86.4
Share with partner	1	4.5
Share with others	2	9.1
Total	22	100

*The accommodation status of 2 of the young people changed from Share with parents to Hostel/institution during their orders, which would double the percentage to 18.2%, and 1 person changed from Hostel/institution to Youth Custody. This is only due to circumstantial knowledge of the cases in question however; I have not investigated whether changes have occurred mid-order on other cases.

SERs – 12 reports have been written on under 18s up to 30.9.18. Of these:

Hostel/institution	2	9.1
Total	22	100
Accommodation	Nr.	%
Residentially qualified	10	83.3
Non – res. qualified	1	8.35
Hostel/institution	1	8.35
Accommodation	Nr.	%
Residentially qualified	20	90.9
Hostel/institution	2	9.1
Total	22	100
Total	12	100

Living status	Nr.	%
Share with parents	10	83.3
Share with partner	1	8.35
Share with others	1	8.35
Total	12	100

Youths – Place of Birth

Results	Nr.	%
<i>POB unknown</i>	9	2.76
<i>Jersey</i>	287	88.3
<i>England</i>	12	3.7
<i>Scotland</i>	2	0.61
<i>Ireland</i>	1	0.31
<i>Spain</i>	1	0.31
<i>Portugal</i>	4	1.23
<i>Madeira</i>	4	1.23
<i>Guernsey</i>	1	0.31
<i>European</i>	1	0.31
<i>S. Africa</i>	1	0.31
<i>N. Ireland</i>	1	0.31
<i>Australia</i>	1	0.31
Total	325	100

7E: Admissions to Secure Accommodation

The below table shows admissions over time.

2016	J	F	M	A	M	J	J	A	S	O	N	D
Remand												
Sentenced	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)
SAO		2 (1)	(1)									
Total new admissions	0	2	0	0	0	0	0	0	0	0	0	0
2017	J	F	M	A	M	J	J	A	S	O	N	D
Remand				1(1)	(1)	1(2)	1(3)	2(4)	1(2)	1(2)	1(1)	3(3)
Sentenced	(1)	(1)	(1)	(1)				1(1)	(1)	(1)	(1)	(1)
SAO												1(1)
Total new admissions	0	0	0	1	0	1	1	3	1	1	1	4
2018	J	F	M	A	M	J	J	A	S	O	N	D
Remand	1(1)	1(1)	1(2)	(1)		1(1)						
Sentenced	(1)	1(1)	1(2)	(1)	(1)	(1)	(1)	(1)				
SAO	(1)				1(1)	(1)		1(1)				
Total new admissions	1	2	2	0	1	0						

N.B. Numbers in () are total numbers in unit at start of month in that category.
Pre 2016- 1 child admitted

Appendix 8: Literature Review on Desistance

(Edited passages from Deering and Evans, 2018: 4-12)

The Risk Factor Prevention Paradigm (Farrington, 2007) was the dominant model of practice in youth justice in England and Wales from 1998 until the introduction of AssetPlus in 2016. Whilst the original longitudinal studies upon which the paradigm was based have undoubtedly yielded important insights into the profile of those who offend, the methodological basis of this work has been open to serious critical challenge (Case, 2007; Case & Haines, 2009; Haines & Case, 2015); not least in respect of hindsight bias, the conflation of correlations with causes, the accuracy of its predictive powers (Garside, 2009), and misplaced therapeutic optimism amongst some policy-makers and practitioners who believed that early intervention almost invariably remedies the risk of further offending. The inherent ‘risks’ posed to young people by such risk-focused assessment instruments and system contact were also not taken into account fully. The Edinburgh Study of Youth Transitions and Crime of a cohort of 4,300 young people (McAra & McVie, 2007a, 2007b, 2010, 2012, 2016) highlights some of the risks presented by the institutional processes of both the welfare and criminal justice systems. Four key findings emerge from the Edinburgh data:

- Persistent serious offending is associated with victimisation (e.g., abuse and neglect), acute vulnerability and social adversity.
- Early identification of ‘at risk’ children is not an exact science. It also poses the risk of labelling and stigmatisation (thus increasing the risk of reoffending and criminalisation).
- Pathways into and out of offending are facilitated or impeded by ‘critical moments’ and ‘key decisions’ made by practitioners and others (e.g., social workers, teachers and parents).
- Diversionary strategies facilitate the desistance process.

Given that youthful offending is arguably normative – according to McAra (2018: 6) 96% of the Edinburgh Study reported the commission of at least one offence - asking why young people desist from offending rather than asking why they commence in the first place represents a potentially productive starting point (Sampson and Laub, 1992 and 1993). Consequently, the Desistance Paradigm (McNeill, 2006) represents a radically different approach and comprises a number of different elements. However, it should not be inferred from this that practitioner skills used to deliver rehabilitative programmes and individual interventions are without value or utility. It is a mistake to represent the best of desistance-informed approaches as a counter-narrative to the best of the What Works literature.

The age-crime curve is widely regarded as one of the established ‘iron laws’ of criminology: the onset of male offending beginning in the early teens, peaking in the late teens and early twenties, and declining sharply in the mid-late twenties (Farrington, 1986; Blumenstein and Cohen, 1987). By the age of thirty the overwhelming majority of males have desisted from offending. The correlation between age and offending, which along with gender is one of the key static factors in the Youth Offender Group Reconviction Score (YOGRS), describes rather than explains the phenomenon of

offending and desistance. 'Growing out of crime' (Rutherford, 1992) is not straightforwardly about age or, for that matter, the maturation process.

There is debate in academic, policy and practitioner circles about what should be included in Desistance Theory. The important point to make is that desistance, in offending or any other behaviour considered problematic (e.g., alcohol misuse, smoking or an unhealthy diet), is conceptualised as a process rather than event or series of events. The trajectory of desistance is also typically erratic rather than linear and is characterised by relapses. The role of the practitioner is one of facilitating and supporting the desistance process and helping the service user to maintain progress. The main argument within the emerging desistance paradigm (McNeill, 2006; Weaver and McNeill, 2010) is that supervisory practice should be about helping the individual identify and remove barriers to their own desistance. This, it is argued, can best be achieved via developing a skilled, empathic professional relationship utilising interpersonal and interviewing skills to assist and support the individual's attempts at desistance (Burnett and McNeill, 2005; McIvor and McNeill, 2007; Rex, 1999; Dowden and Andrews, 2004; Raynor *et al*, 2014; Ugwuodike *et al*, 2018). In this way, the quality of a consistent relationship is central to success and McNeill *et al* (2012) argue that practice needs to work with a model of change that assists the individual to acquire motivation, skills (human capital) and opportunities (social capital). This implies that practitioners should act as motivational counsellors, educators for human capital and advocates for social capital. The argument is thus that assessment and supervision need to move from the identification of risks 'fixed' by programmes to the co-identification of strengths, the encouragement of pro-social bonds and support for the maintenance of motivation against the odds.

Desistance takes time, which implies that the measures of success have to be re-conceptualised and recalibrated. The stages of desistance are often referred to as *primary* and *secondary*, although more recently reference has also been made to a *tertiary* level (McNeill and Schinkel, 2016): *primary* describes behavioural change, *secondary* a radical change in identity, and *tertiary* as a sense of belonging to the wider community. This account is not inconsistent with the Good Lives Model (Ward and Brown, 2004), which argues that people – including offenders – seek to obtain primary and secondary social goods (such as a sense of belonging and friendship).

According to Maruna *et al* (2015) the research and theoretical literature on desistance can be organised under two main headings: *internal factors influencing desistance* and *social factors influencing desistance*. This representation of the literature is open to contestation and challenge, but it does have the virtue of assisting practitioners and managers to reflect clearly on how best to work with (i) individual young people and (ii) the wider social context they inhabit. Of course, a dynamic and interactive relationship exists between these two dimensions, but in terms of planning interventions, it perhaps helps to think in these terms. Summarised below are the key messages from the theoretical and research literature on desistance in these two areas.

Internal Factors Influencing Desistance

There are three main areas that need to be considered in relation to 'internal factors': maturation; trauma and adverse childhood experiences; and identity.

Firstly, it is important to recognise that maturation is a key element in the desistance process. Children and young people are still in the process of growing up; not only in biological terms, but also in respect of their developing intellectual, social, emotional and moral competencies. Child and adolescent development is a highly individualised process, mediated through the prism of social and cultural context. Nevertheless, it is widely accepted that children do not have the same capacity to make fully informed or nuanced moral judgements in the same way as adults who have reached full maturity. While children are certainly not devoid of moral awareness, they may not always understand the wider practical and ethical implications of their behaviour (Coleman, 2011). Research on brain development during adolescence suggests that it is not until the early twenties that the process of maturation in neural circuitry is complete (Keating, 2004; Blakemore & Choudhury, 2006; Steinberg, 2007; Royal Society, 2011; Mackintosh, 2011; Delmage, 2013; Lamb & Sym, 2013). Technological developments in functional magnetic resonance imaging enable us to know more about the process of synaptic pruning that takes place in various parts of the adolescent brain as well as changes in the limbic system. The latest research suggests that the pre-frontal cortex, which is the main part of the brain responsible for cognitive functioning and impulse control, is one of the slowest to develop (often not developed fully until the young people reach their mid-twenties) Steinberg (2009) has highlighted the still developing capacity for consequential thinking (an area in which many offending behaviour programmes focus). Changes in the limbic system (which processes information that relates to emotion), meanwhile, may account for the strong mood swings often associated with adolescence.

Secondly, the point needs to be made that the maturation process does not take place in a social vacuum. In addition to the provision of basic human needs, the stimulus and support of a secure and emotionally warm environment are vitally important to the development of a young person. Conversely, abuse, adverse childhood experiences, neglect and poverty can have profoundly negative effects on the development of a child. Indeed, trauma can delay cognitive development and the capacity for self-control. It is against this background that interest in trauma-informed approaches to working with young people has grown (Skuse and Matthew, 2015), most notably in the youth justice context with the introduction of the Enhanced Case Management Model.

The third important area relates to identity formation and cognitive transformation. Narrative criminological explanations of desistance have been based mainly on retrospective accounts of adults reflecting on their journeys to non-offending lifestyles (Maruna, 2001; Maruna and Farrell, 2004; Maruna *et al*, 2004; Presser and Sandberg, 2015) as well as those sociological accounts on wider youth-to-adult transitions (Johnston *et al*, 2000; Chamberlayne *et al*, 2002; Webster *et al* 2004; Williamson, 2004; MacDonald and Marsh, 2005; Shildrick *et al* 2012a and 2012b). There has, however, been some research undertaken on accounts of children and young people involved in the youth justice system (see, for example, McMahon and Jump, 2018). Accounts of offending – or any other actions for that matter - can never be completely contemporaneous, of course; not least because, as Kierkegaard (1843/2000) observed:

‘It really is true what philosophy tells us; that life must be understood backwards. But with this, one forgets the second proposition, that it must be lived forwards.’

The narrative criminological approach embraces the Kierkegaardian paradox by simultaneously 'looking back' and 'looking forwards': making sense of the past and drawing lessons to inform plans for the future. However, it is not simply about formulating a list of behavioural modifications and planning objectives. The projected future must address two questions: 'who do I want to be?' and 'how do I want to live?' (Szifris, 2017). A central message of narrative criminology is that, notwithstanding the profound personal and social disadvantages that will have been experienced by most offenders, they do possess the personal agency and freedom to choose how they live their lives. The legacy of difficult childhoods, blocked opportunities and the weight of material and social constraints should of course be acknowledged. Nevertheless, if young people do not recognise they have the ability to make meaningful choices, they abandon hope of a future they can shape and as a consequence surrender themselves to the 'destiny' predicted by the risk factors of parenting and postcode (Brent, 2013). Believing that they have a measure of control over their own lives is a prerequisite of the narrative criminological approach. Empowerment of young people is therefore a key part of practice; in terms of helping young people access opportunities and in terms of assisting young people to believe they can change.

In terms of working with individual young people, there are three key elements that need to be highlighted: narratives and scripts (Maruna, 2001); identity (Paternoster and Bushway, 2009); and 'hooks for change' (Giordano, 2016).

'Scripts', an essential element in narrative work, comprise key stories and messages that individuals tell themselves. Early scripts are authored by parents, teachers and other significant adults and will communicate ideas about who we are as individuals in terms of values, expectations and roles. An important lesson in life is to realise that one can take control of one's script and re-write it; often in defiance of the expectations of others. Most clients of the criminal justice system will have received what are described as *condemnation scripts*: condemned to fail at school, condemned to be poor and condemned to spend time in custodial institutions. However, the possibility of being the author of one's own future involves drawing lessons from this original script and writing a *redemption script* in which one privileges positive prosocial messages. Individuals' interpretations of their past and the narratives they construct are inevitably selective and usually self-serving. This is true of everyone: anyone who has written a *curriculum vitae* will know this to be true. The important point is that one draws the positives from one's past ('it's probably not all been bad'), recognises those aspects of one's past that one had little or no influence over (family problems, trauma, poverty, teachers with low expectations, etc.), acknowledges the bad choices one has made and contrasts these mistakes with how one seeks to move forward.

As has already been mentioned, it is not simply a case of formulating a set of personal objectives. There is also the nature of an identity that is neither predetermined nor fixed. There is an underpinning belief that people can change and choose to be different. In the literature (Paternoster and Bushway, 2009) there is reference to the 'working self' (the present) and the choice between the 'feared self' ('the sort of person I will probably become if I continue on the present trajectory') and the 'desired self' or 'replacement self' ('the sort of person I would ideally like to become') (Hunter and Farrell, 2018).

'Hooks for change' (Giordano, 2016) are usually required in order to effect a shift from a pattern of offending to desistance. Such 'hooks' describe the scaffolding to incentivise and support the desistance process. They may take the form of employment opportunities, a personal relationship or a consuming leisure interest. Crucially, though, these 'hooks' must be valued by the offender and the individual concerned must be emotionally and cognitively ready to take advantage of them (Hunter and Farrall, 2018). In the case of young people, of course, there is also the question of maturity. That said, the work of McMahon and Jump (2018) challenges the assumption that desistance in adolescence is unlikely. Positive work can be undertaken to support children in the desistance process. It is, though, important to recognise that the process of desistance is difficult and non-offending does not necessarily bring its own rewards. Offending can bring material rewards in an environment within which legitimate opportunity structures are either unavailable or very scarce. Offending can also be a source of friendship, validation and self-esteem. It therefore needs to be recognised that offending is often a rational response to limited opportunities within a challenging environment. Youth Offending Services should therefore pay attention to not only preparing the individual young person to take advantage of 'hooks for change' when they are presented, but also consider ways in which access to tangible opportunities can be both improved and created. This requires the development of networking and even entrepreneurial skills within Youth Offending Services.

Social Factors Influencing Desistance

The importance of close and secure social bonds has long been recognised in the literature. Three key dimensions of the desistance process have been identified: '...a good job; a good relationship; and involvement in prosocial hobbies and interests' (Maruna *et al*, 2015: 162). Moreover, the changing nature of youth-to-adult transitions since the 1970s has had a radical impact on the social conditions within which such bonds can be formed, especially for working class males (Furlong and Cartmel, 2007; MacDonald, 2015). The transition from school to well remunerated unskilled or semi-skilled work in the labour market has all but collapsed as a direct result of macro-economic changes (from production and manufacturing to service industries). Areas such as the north-east of England, the South Wales valleys and certain neighbourhoods in large cities have been particularly badly affected by these economic changes. Concurrently, the move from living at home with one's family of origin to affordable independent accommodation has become extremely challenging for most young people. As a result, establishing a 'family of destination' is also very difficult for young people today. It should be noted, too, that family structures are far more diverse than was the case in the 1970s, with lone parent and reconstituted families generally being poorer and less able to support their children financially. This is not to make a moral point, of course, but social policy has yet to catch up completely with these trends and social changes in family life. Given the protracted and fractured nature of youth-to-adult transitions, it is perhaps understandable why many working class young people in deprived areas struggle to imagine a future founded on legitimate employment. The competing opportunity structures of illicit and shadow economies are often far more accessible. It is equally understandable that youth offending services should struggle to know how best to respond to these significant structural challenges. However, if meaningful 'hooks for change' are to be created, then inroads need to be made in such areas as education, training, education, accommodation and leisure. In order for young people to change for the better, they require the

prospect of material reward, validation, engagement with prosocial institutions and, above all, a sense of hope that things can get better.

The implications for practice as well as social and economic policy are, to say the least, challenging. To some extent, it is a matter of placing greater strategic emphasis on existing practice partnerships and creating new ones when required. It involves being even more proactive in systems intervention and management in areas where young people could be better served: education, the Looked After Children system, mental health, income maintenance, accommodation and training. Employment and training are areas that may well require a strategic, innovative and entrepreneurial partnership approach. A granular level of data on the communities served by youth offending services are available and, with partners, should be analysed closely with a view to developing local strategies to promote social inclusion.

Desistance and Key Messages for practice: some initial considerations

The implications for practice that emerge from the theoretical literature on desistance can be summarised in the following terms.

1. Helping the individual young person to identify and remove barriers to their own desistance.
2. The skilled practitioner should develop an empathic professional relationship utilising interpersonal and interviewing skills to assist and support the individual's attempts at desistance.
3. The model of change adopted should be one that assists the individual to acquire and maintain motivation, learn and refine skills (human capital), and access opportunities (social capital).
4. Practitioners should act as motivational counsellors, educators for human capital and advocates for social capital.
5. Practitioners should be active in the removal of barriers to desistance and intervene in systems in order to promote positive outcomes for service users.

The joint probation and youth justice Inspectorate (HMIP) has, moreover, produced a document that brings together a summary of the desistance literature with empirical research on what young people have found useful and less useful about supervision. Youth Offending Services are exhorted to focus on eight 'domains' of practice (HMIP, 2016: 7):

1. Building professional relationships, effective engagement and re-engagement, and collaborative working.
2. Engagement with wider social contexts, especially the family, but also peers, schools, colleges, work, etc.
3. The active management of diversity needs.
4. Effectiveness in addressing key 'structural barriers' (exclusion from education, training or employment, lack of participation, lack of resources, substance misuse deficits, insufficiency of mental health services, etc.).
5. Creation of opportunities for change, participation and community integration

6. Motivating children and young people.
7. Addressing children and young people's sense of identity and self-worth.
8. Constructive use of restorative approaches.

From their interviews with both 'desisters' and 'persisters', HMIP identified the following 'domains' as likely to promote desistance: a good relationship with at least one worker (not necessarily the case worker); meaningful personal relationships and belonging to a family; emotional support and practical help from a worker who clearly believed in their ability to change; the development of a strong personal relationship (with a partner) and/or becoming a parent; changing peers and friendships; interventions providing problem-solving solutions for day-to-day problems; and well-planned and relevant restorative justice. In contrast, the following were felt to be less useful: formal offending programmes not suited to their needs; poor relationships with case workers; frequent changes of case manager; identified needs not being addressed; a lack of genuine engagement with the case manager in the planning of intervention; and objectives that were not personally relevant being included in plans.

Appendix 9: Checklist on Implementation of 2010 Review

Recommendations

1. The States of Jersey should immediately request the United Kingdom government to ratify the UNCRC on its behalf, or alternatively incorporate the UNCRC into domestic legislation. Whilst it may be some time before Jersey is technically compliant with the Convention, ratifying it indicates a firm intention to comply. Many signatory nations are not yet fully compliant with the Convention.

The UNCRC has been extended to Jersey.

2. Policy and Practice in Youth Court.

(i) In order to ensure that children are represented by lawyers who understand children's matters, specialist training in children's legislation and effective practice should be made available to all Advocates who work in the Youth Court.

Target date: immediate. Resource implication; training from JPACS / Institute of Law / Highlands College.

No. Youth Court had just secured additional Duty Advocate resource (free for clients through legal aid). A training event training was provided by JPACS / Law Society but was not compulsory.

(ii) That Youth Court Panel Members and Magistrates are provided with similar training to that provided for convenors, reporters and Hearing panel members in Scotland and Guernsey to reinforce their existing problem solving approach.

Target date; immediate using the existing training budget.

Some training has been received.

(iii) Youth Court practice should continue to reflect a problem solving approach; in particular recognition that a vertical tariff and numerous specific conditions to orders are unlikely to be effective.

Target date: ongoing

There has been progress on this in the intervening period.

5. Prosecution and the Parish Hall Enquiry.

(i) In order to allow for a considered decision based on good information the States of Jersey Police will normally only request Centeniers to attend at Police Headquarters to consider charging a child if the child is to be detained in custody pending a first court appearance. In all other cases the child and parents/ guardians will be warned for a Parish Hall Enquiry.

Target date: immediate.

Mostly. 5 non PHE cases in Youth Court in 2017, 4 custodial.

(ii) There should be at least a two week period between release from Police Headquarters and the Parish Hall Enquiry during which time the JPACS should contact the family to help them to prepare for the enquiry and prepare a verbal or written report for the Centenier. This period allows the family to demonstrate that they have taken action to deal with the offending behaviour by their child.

Target date: immediate through Centeniers, CJU and JPACS

Achieved.

(iii) The Constable of the Parish issues driving licences and therefore in appropriate cases Centeniers could be authorised to ask the child to consider surrendering their licence for a period. If agreed to by the family this should be recognised as a de facto endorsement or disqualification, and allow Centeniers to deal with some motoring matters which presently have to go before the Youth Court. (Mandatory disqualification cases would still have to go to Court)

Target date: January 2011. Approval required from AG, Comité des Connetables and Youth Court

Legal obstacles prevented this.

(iv) Discussion to take place with the Attorney General to vary the guidelines which govern Centeniers' discretion around the charging of children, so that they may deal with those already subject to orders and deal with more children informally who do not require compulsory measures to prevent their re offending.

Target date: January 2011 discussion with AG. New guidelines in place by March 2011.

Yes.

(v) The JPACS restorative justice officer post to be expanded to provide training and support to the Honorary Police and other community representatives in order to develop further their skills in conflict resolution in their work in the parishes. This would have the dual benefit of positive crime prevention activity and making service in the Honorary Police more attractive to Parishioners.

Target Date: Immediate: funding required for increase in Officer's hours by 5 per week.

Partially – additional 5 hours found by JPACS. Training funded by JPACS for Education and RCO staff. The former was more successful. This training has not spread to the Honorary Police.

6. Policing of children.

(i) No child should be labelled as a Priority Persistent Offender without consultation with JPACS and the Social Services Department. Disruption practices when used in isolation can be counterproductive when used on children who are already excluded from mainstream living. These children will be managed through the CAST system.

Target date: immediate through discussion with Chief Officer of Police

Yes in respect of PPO status, but no new CAST system was put in place. Existing multi-agency processes used instead. Most recently the 2018 multi-agency initiative has reinvented this model.

(ii) The States of Jersey Police and the Honorary Police should take up the offer of training in interacting with children which has been offered by the Youth Service. Senior managers of both organisations should meet to explore and resolve tensions between their organisations.

Target Date: A Programme to be in place for 2011

Relationships have improved.

iv) Those children causing most concern to agencies because of their offending behaviour should be managed according to a multi agency model akin to that of the Child Protection Case Conference or RAMAS but with the focus being on the child's best interests. This process has been labelled (Children's Assessment and Support Team) in this report. All

Departments should undertake to co operate in this process and allocate resources as a priority to this group.

Target date: Immediate through a memorandum of understanding. Meetings can be convened by any agency but chaired by the Probation and After Care Service.

See above re: CAST.

(v) Children's home staff and schools should not call the Police to deal with incidents that would be dealt with by a responsible parent in their own home. (However, it is recognised that a parent may wish to make a complaint to the Police following a playground fight or another child may wish to bring a charge in a children's home for example). The principle is that a child should not be penalised because they are a looked after child or be already known to the police.

Target date: immediate, but staff will need to feel supported in resolving the conflict informally. Training to be provided in conflict resolution and restorative practices.

This has been partially successful in terms of implementation. It has ebbed and flowed.

(vi)The practice of reporting all children who leave a Children's home without permission as missing persons should be reviewed. Wherever possible the child's parent or key worker should return a missing child once found.

Target dates. Immediate: Consultation with law officers about how far duty of care requires notification to SOJP and what action Police are obliged to take. Protocol in place by March 2011.

The Review has been informed that during the course of 2018 a considerable amount of work has been undertaken by the Children's Service Improvement Board. We look forward to a positive outcome in this area.

7. Probation Supervision.

(i) Probation Supervision needs to be age appropriate e.g for children under the age of 15 it should focus on structured family work – work with the child alone is unlikely to succeed.

Target date: immediate: all staff members have been trained already, but a more robust implementation required.

Yes – ongoing and regular training provided to those working with children

(ii) JPACS should exercise more active strategies in order to help children comply with the reporting requirements of their orders. For example the Alternative Curriculum picks children up from home to ensure they attend; a similar strategy for those older children attending without their parents could reduce breach for non compliance.

Target date: Immediate, subject to approval by the Court.

Yes – ultimately children do have to comply with Orders, but a different approach is used in working with children in comparison to adult clients.

(iii) More use of indirect reparation and compensation should be made in Probation Orders. The expertise of the Community Service Scheme can be used to assist with this but it should be recognised that Community Service Orders are not always an effective way of responding to offending by many children. Therefore agreements to make indirect restitution by children should be performed generally as part of a Probation Order.

Target date: March 2011

Partially. Fewer CSOs and more individualised experience for those few. However, a reparative condition as part of a PO, as proposed in the 2018 Recommendations, may be a better way forward.

(iv) JPACS should remain responsible for Court based work and the Parish Hall Enquiry System.

Implemented.

(v) Resources should be transferred from YAT to JPACS to provide bail support and develop services to children at risk of custodial remand.

Target date: immediate

Yes and no: no resources provided.

(vi) JPACS should work with victim support and the CJU to establish whether greater use of Compensation Orders would be a viable option for the Court.

Target date: immediate

Yes.

8. Youth Action Team. (YAT)

(i) YAT should operate at arms length from the criminal justice system working with those children at risk of school exclusion, who are looked after or who are at risk of coming to official notice. YAT can provide a valuable social work support in these circumstances and should be available to Probation, residential care staff and teachers as well as

being able to accept direct referrals from parents. It is important for the reasons outlined earlier in this report, and its role as originally envisaged, that YAT is not seen as a Youth Offending Team (YOT), but as a key resource to the CAST process for our most needy children.

Yes and No – YAT was dissolved and the children’s Service resource went back into their other teams – notionally to provide the support outlined. More recently IST would be doing this and supporting the Probation Service’s statutory work in appropriate cases.

9. Children’s Service

(i) Children who find themselves repeatedly in the justice system, particularly those who are seen as persistent or who are sentenced to custody, should be considered children in need, and afforded the same level of service as those children who are “looked after” – in many cases they will already have this status.

Yes – children in custody are Looked After Children now.

(ii) Emergency fostering should be available as an alternative to a custodial remand. Any issues around Social Security or Employment Law should be referred to the CPG and CoM for resolution. Although expensive this form of intervention is less expensive and less damaging to a child than a custodial remand.

Target date: February 2011: action plan completed.

No. It has been a recommendation in numerous reports and has yet to happen

10. Other

Discussions should take place with the Guernsey authorities regarding the sharing of facilities at Greenfields and the YOI.

Guernsey did not wish to use Greenfields.

Legislative changes required for compliance with the United Nations Convention on the Rights of the Child (UNCRC) and the European Convention on Human Rights.

1. Criminal Justice (Young Offenders) (Jersey) Law 1994

(i) The Criminal Justice (Young Offenders) (Jersey) Law 1994 to enshrine the welfare principle. Statements to be inserted into the Criminal Justice (Young Offenders) (Jersey) Law 1994 to the effect that:

- The welfare of the child shall be a primary consideration when children come into conflict with the criminal law;
- Compulsory measures should only be used where voluntary means have failed and are unlikely to be successful in the current case.

Both of these statements contain principles which are found in Criminal Justice Systems which produce good outcomes for children, and are compatible with the UNCRC, ECHR, the Children (Jersey) Law 2004 and the statement of purpose of the CPG.

Practice change: All stakeholders in Youth Justice system should agree to work under this ethos as far as this is possible under the existing legislation and issue a joint statement to this effect.

Not implemented.

(ii) Article 2 of the same law should be amended to raise the age of criminal responsibility to 12 years to comply with international conventions and to ensure that 10 and 11 year old children do not experience the arrest and prosecution process and do not appear before the Criminal Courts. This may not prove contentious as might first appear; Police statistics show only 3 or 4 children of this age appearing before the courts between January 2008 and July 2010.

Practice change: The Attorney General could direct that prosecution of children under the age of 12 years should cease other than in exceptional circumstances as it is incompatible with international law and convention. (See for example UNCRC report on UK 2008)

Yes. See AG Guidance.

(iii) Article 4 (2) be amended to reflect that a child may only be sentenced to youth detention for the purpose of preventing serious harm to the public and to ensure that the child receives help and education that cannot be provided in a non secure setting, unless the offence falls under Article 5 provisions. A statement to be inserted to state that a child so sentenced may be accommodated within a secure children's home should the Minister for Health and Social Services consider this appropriate. A further clause should be

inserted permitting the Minister for Health and Social Services to manage the child's placement during sentence as though it was a secure accommodation order under Article 22 of the Children (Jersey) law. (Secure Accommodation Order provisions); This would allow temporary return home, transfer to a non secure venue etc. and allow one set of rules for the establishment rather than two. Article 2 (a) does not appear to be compatible with international conventions and Article 2 (c) may require modification to be compliant.

Practice change: None possible without law change

Partially - Law change re: Greenfields for sentence and Placement panel and Looked After Status.

(iv) Article 5 should be reworded to reflect the interpretation being currently used by the Royal Court.

No. Royal Court considered this unnecessary.

(v) A statement to be inserted into Article 16 to make clear that children should only be placed in a remand centre (or YOI) if the Court is satisfied that they will not appear in Court subsequently otherwise or it is necessary to protect the public from harm or that they will interfere with witnesses. Conditions should only be attached to bail or warnings to appear, when they are *directly related* to the offence e.g. not to drive, or are necessary to protect others from harm only.

Practice Change: If the Court is concerned about a child's own safety it could invoke (vii) below.

No

(vi) The Youth Court should be empowered to deal with all offending by children under 17 years of age except for matters where a sentence under Article 5 is likely.

Practice Change: The Royal Court could agree this change in practice.

No.

(vii) The Youth Court should be empowered to make an Order equivalent to that available in family proceedings under Article 29 of the Children (Jersey) law 2002 where a child is under 17 years of age to require the minister for Health and Social Services to investigate a child's circumstances and report back to the Court and further be empowered to direct the Minister for Health and Social Services to apply for a Secure Accommodation Order under Article 22 of the Children (Jersey) Law 2002, if it believes that the circumstances of the child warrant such a procedure.

Practice Change: The Minister or Health and Social Services could agree to investigate as if the provision was in place

No.

(viii) The Youth Court be empowered to refer a case back to a Parish Hall Enquiry. (We understand there may be another legal principle which may prevent implementation of this recommendation.)

Practice Change: A Centenier could offer no evidence on the advice of the court and invite but not require the child and parent to attend an Enquiry.

In forthcoming legislation – currently done quietly in practice through asking Centenier to withdraw charge.

(ix) The provisions of Article 13 of the Criminal Justice (Young Offenders) (Jersey) Law be extended to Royal Court proceedings for compliance with the ECHR and UNCRC requirements that matters concerning children should not be dealt with in public.

Practice change: The Royal Court could order the public gallery cleared in proceedings involving children.

No, but current AG and JPACS had some success in practice change when children appearing (has not always worked). A Draft Practice Direction, if implemented, will address the salient issues.

(x) The practice of detaining young offenders between the ages of 18 and 21 in the YOI be reviewed

The prison is flexible and can keep a male YO in YOI or adult accommodation. Female will always be in adult accommodation

2. Children Law Jersey (2002).

Article 22 should be clarified to ensure that it applies to any child in the care of or subject to inquiry by the Minister for Health and Social Services. Currently only children who are "looked after" by the Minister can be made subject to a Secure Accommodation Order.

Practice change: none possible.

No – Argument was that it was unnecessary.

Appendix 10: Children and Criminal Records Disclosure Benchmarking

Data: A

Comparative Analysis of Jersey, England, Wales, Scotland and Northern Ireland

Since the last review of youth justice in 2010, Jersey has seen a significant reduction in the number of children dealt with by the criminal justice system. Similar reductions in the criminalisation of children have been seen in the three UK jurisdictions, Western Europe and, indeed most industrialised countries across the world.

Explanations for these reductions have been diverse. They range from claims that the introduction of unleaded petrol has reduced the incidence of conduct disorder as a consequence of interrupted brain development (Reyes, 2007), to efforts on the part of states to introduce educational or community based measures aimed at preventing offending behaviour. Most recently it is claimed that children's increasing use of 'screens' over the last decade has diverted them from crime (Berghuis & De Waard, 2017). Bateman (2017), meanwhile, attributes fluctuations in reported crime to cultural shifts in community tolerance of delinquent behaviour, changing policing priorities and whether diversionary measures are in place at any given time. It is most likely that there is a combination of factors contributing to reductions of child criminality in these various countries.

The following table shows a comparison of 2017 data from Jersey, Northern Ireland, Wales and Scotland. Rather than comparing absolute numbers of children arrested, charged and convicted, this shows the number of children whose contact with the criminal justice system leaves them subject to disclosure by an enhanced criminal records check, which could prevent them from gaining some forms of future employment. This criterion has been chosen in order to overcome the difficulties of direct comparison between quite different legislative and administrative systems. In the cases of both Jersey and Scotland this required an estimate based upon figures provided or published.

	Youth Justice Cohort Size	Population Estimate (age of criminal responsibility)	YJ Cohort per 1000 pop	Disposals that can lead to criminal records disclosure
Jersey	64	9,000	7.1	Court and PHE Notifiable Sanctions (estimate)
N Ireland	893	183,000	4.9	Court and Diversionary Interventions
Wales	1378	292,000	4.7	Court and Police Disposals
Scotland	2076	567,000	3.7	Court and Children's Hearings (estimate)

No matter what the cause or causes, Jersey now has a reduced cohort of children involved in the youth justice system which is comparable to these other jurisdictions (albeit with a larger proportion of the total population of children of the age of criminal responsibility). Far fewer children are criminalised and consequently they are far more likely to have favourable life outcomes.

Appendix 11: Adverse Childhood Experiences (ACEs) and Trauma-Informed Practice

Given the reduced numbers entering the youth justice system in Jersey, in common with other countries it is probable that the children left in the youth justice cohort have more complex and disadvantaged backgrounds, with exposure to a range of adverse childhood experiences (ACEs) and are correspondingly more likely remain involved in the criminal justice system and suffer other negative social and health outcomes. For this reason many jurisdictions are beginning to develop ways of identifying, monitoring and addressing ACEs.

Exposure to multiple adverse experiences in childhood was linked with an increased likelihood of health harming behaviour during adulthood towards the end of the last century (Felitti, Anda, et al, 1998). A survey of over 13,000 adults in the USA found significant associations between those who reported exposure to four or more ACEs - who were 4-12 times more likely to experience alcoholism, drug abuse, depression, and suicide attempt - compared to those who reported none.

More recently, Public Health Wales research in 2015 also showed a strong correlation between adverse childhood experiences (ACEs) and harmful outcomes; including exposure to the criminal justice system. Adults in Wales who had experienced four or more 'adversity factors' were shown to be just over 20 times more likely to have experienced incarceration than the general population (Public Health Wales 2015).

If adults who report exposure to higher levels of ACEs are more likely to be involved in crime, it follows that children most involved in offending behaviour will have high levels of recent exposure to adversity. In 2012 the Youth Justice Board (YJB) in Wales undertook a study profiling 112 children who had criminal histories of 25 or more convictions and an average re-offending rate of 86%. The study revealed significant levels of traumatic experience and distress. Most of these children (predominantly boys) were aged 16 or 17, 84% had no written record of any educational achievement (formal or informal qualifications), 41% had been on the child protection register, nearly half had witnessed domestic violence and almost two-thirds had suffered early childhood trauma or neglect (John, Williams & Haines, 2017).

In subsequent work the YJB has developed an ACE and trauma-informed practice approach for those who display persistent offending behaviour – Enhanced Case Management (ECM) which is based upon the Trauma Recovery Model (Skuse & Matthew, 2015). Through this, the YJB has been able to compare the prevalence of adversity factors among children in the current youth justice cohort with the general population. Unpublished information¹ from the latest phase of the ECM is shown in the table below alongside results from the Public Health Wales report.²

ACEs amongst Public Health Wales and ECM samples

	Adversity Factor	2015 PHW	2018 ECM
In the child	Verbal Abuse	23%	40%

¹ shared with the consent of the participating youth offending teams

² N.B. the South Wales information is from a very small cohort and is subject to verification as work progresses. However, it is likely that this is an under-rather than over report. This may explain the relatively low figure shown for the ECM with regard to having experienced sexual abuse; a traumatic experience about which children are understandably reticent.

In the child's family	Sexual Abuse	17%	4%
	Physical Abuse	10%	40%
	Parental Separation	20%	96%
	Domestic Violence	16%	76%
	Mental Health Issues	14%	60%
	Alcohol Abuse	14%	52%
	Drug Use	5%	80%
	Parental Incarceration	5%	52%

Children with backgrounds where there is neglect (which is closely linked to poverty), domestic violence, parental mental illness, frequent house moves or substance misuse often have parental attention and nurture focused elsewhere. Children in these circumstances tend to have more negative attachments with their caregivers, have poor emotional regulation skills and negative internal working models. This combination of features can have profound impacts upon their developing behaviour. Research indicates developmental trauma and impairment in the attachment relationship between a child and their caregiver has a significant impact upon neurological functioning and behaviour (Rogers & Budd, 2015). There are frequently deficits in executive functioning (attention, concentration, anticipation, planning, abstract reasoning, cognitive flexibility, impulse control), verbal IQ, empathy, verbal memory and expressive and receptive language skills (Creeden, 2004; Decety & Cowell, 2018; Perry, Griffin, Davis, Perry & Perry 2018; Teicher, 2000). In short such children can through little fault of their own, present themselves as rude, unruly, aggressive or non-compliant.

Combined with their actual offending, this presentation can accelerate such children through the criminal justice system in a disproportionate way when compared with those children who offend but then present themselves in a way that is perceived by adults to respect authority and show remorse.

Appendix 12: Commonwealth Magistrates' and Judges' Association and United Nations Children's Fund Resolution on the Promotion and Protection of the Rights of Children in Contact with the Law

The Providenciales Resolution on Justice for the Next Generation The Promotion and Protection of the Rights of Children in contact with the Law

We, the Commonwealth Magistrates' and Judges' Association and United Nations Children's Fund on the occasion of the Colloquium on the Child and the Law in Providenciales, Turks and Caicos Islands, 1 – 2 October 2009,

Recalling the Universal Declaration of Human Rights , the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, and especially its articles 3, 12, 37, 39 and 40,

AND NOTING

- other International Standards and Norms in crime prevention, criminal justice and the administration of justice for **juveniles and children**,
- the specific vulnerability of the child to abuse, exploitation, violence and other violations of their rights while in contact with the law, in particular while deprived of their liberty,
- the need to promote and protect the rights of all children in contact with the law.

1. **Urge** the Governments of the Commonwealth to take urgent steps to introduce and implement child justice systems in line with International Standards as established through the United Nations.
2. **Commit to** encouraging, in cooperation, governments and judiciaries across the Commonwealth in the establishment and enhancement of child justice systems in line with international standards through:
 - the development and promotion of court procedures which are child appropriate and gender and disability sensitive;
 - the systematic use of child rights principles, including as a primary consideration the best interests of the child in the administration of justice;
 - the use of deprivation of liberty of children only as a measure of last resort and for the shortest possible time.

**Providenciales,
Turks and Caicos Islands, 2 October 2009**

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